V 29-36 P

TRANSCRIPT OF RECORD.

139 387

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1886.

No. 1091. ~~705~~ ~~1089~~ 185 13

STEPHENSON WATERS, ADMINISTRATOR OF WILLIAM GAY, DECEASED, APPELLANT,

vs.

JOHN A. BUCKNER, IN HIS OWN RIGHT AND AS TUTOR OF ETHELINE BUCKNER, A MINOR, NARCISSE KEENE AND MATTHEW F. JOHNSON, HER HUSBAND, AND JULIA H. MORGAN AND GEORGE G. JOHNSON, HER HUSBAND.

FILED OCTOBER 8, 1886.

No. 1292. ~~867~~ ~~551~~ 219 27

JOHN A. BUCKNER, IN HIS OWN RIGHT AND AS TUTOR OF ETHELINE BUCKNER, A MINOR, NARCISSE KEENE AND MATTHEW F. JOHNSON, HER HUSBAND, AND JULIA H. MORGAN AND GEORGE G. JOHNSON, HER HUSBAND, APPELLANTS,

vs

STEPHENSON WATERS, ADMINISTRATOR OF WILLIAM GAY, DECEASED.

FILED NOVEMBER 16, 1886.

APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

not be shown in those earlier cases) that the nubias contained also the invention of Patent 218,032 (Dolan Record, pp. 18 to 26 inclusive). That case was brought before this Court by appeal, and the final decree in favor of complainant was affirmed without an opinion (122 U. S., 640).

It is respectfully prayed that the decree of the Circuit Court be affirmed.

Very respectfully,

ARTHUR v. BRIESEN and
ANTONIO KNAUTH,
Of Counsel for Appellee, A. G. Jennings.

NEW YORK, February, 1891.

139-389

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APPEALS FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

JUDD & DETWEILER, PRINTERS, WASHINGTON.

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a UNITED STATES OF AMERICA:

United States Circuit Court, Fifth Circuit, Eastern District of Louisiana.

JOHN A. BUCKNER, for Himself and for ETHELINE BUCKNER, as Tutor,
vs.
STEVENSON WATERS, Administrator of Estate of William Gay. } No. 10633.

Consolidated.

NARCISSA KEENE, Wife of Mathew F. Johnson, *et al.*
vs.
STEVENSON WATERS, Administrator of Estate of William Gay. } No. 10634.

Appearances: Thomas J. Semmes & Legendre, for complainants, cross-appellants; W. F. and D. C. Mellen, for defendants & appellants.

b *Transcript of Appeal.*

Appeal returnable to the Supreme Court of the United States, at the city of Washington, D. C., on the second Monday of October, 1886.

1 *Bill in Nature of Cross-Bill. Filed July* 10, 1884.

United States Circuit Court, Eastern District of Louisiana.

JOHN A. BUCKNER, for Himself & for ETHELINE BUCKNER, as Tutor,
vs.
STEVENSON WATERS, Administrator of Estate of William Gay. } No. 10633.

To the honorable the judges of the circuit court of the United States for the eastern district of Louisiana:

Jno. A. Buckner, for himself & as tutor of his minor child, Etheline Buckner, bring this their bill, in the nature of a cross-bill, against Stevenson Waters, administrator of the estate of William Gay, deceased.

2 And thereupon your orator complains and says that he is a citizen of the State of Louisiana and the defendant is a citizen of the State of Kentucky.

1st. That your orator and his said minor daughter, in conjunction with Julia H. Morgan, wife of George G. Johnson, & Narcissa K. Keene, wife of Mathew F. Johnson, are the sole heirs of Narcissa Deeson, deceased, wife of Oliver J. Morgan, deceased. Said Narcissa Deeson died in 1844, leaving her surviving two children, her sole heirs, to wit, Julia Morgan & Ann Morgan. The father of these children, Oliver J. Morgan, died in 1860. Julia Morgan married Keene and by him had several children, of whom Narcissa K. Keene, wife of Mathew F. Johnson, alone survives. Keene having died,

Julia Morgan married Oliver T. Morgan, and by him had a daughter, Julia H. Morgan, who married George G. Johnson. Julia Morgan died in 1868, and her husband, Oliver T. Morgan, died
3 in 1873. Ann Morgan married Kelham, and when Oliver J. Morgan died, in 1860, Oliver H. Kelham, Jr., his great grandson, was the sole heir of Ann Morgan, who had died in the lifetime of her father, & said great grandson was the other heir of Narcissa Deeson, deceased, wife of Oliver J. Morgan.

John A. Buckner, your orator, married Mrs. Kelham, and her son, Oliver H. Kelham, Jr., having died in the lifetime of his mother, his interest was vested in his mother and his brother and sister of the half blood, John and Louisa Buckner.

Mrs. Melinda Kelham, wife of your orator, having died, her two children, John and Louisa, inherited from her. John Buckner died intestate and unmarried in the lifetime of his sister Louisa. Louisa, called Mollie in the suit No. 6612, died in 1883, leaving her surviving her father, your orator, and a half sister, Etheline, child of John A. Buckner by a second marriage.

4 The interest of Kelham, as heir of Ann Morgan, became thus vested in your orator and his minor child aforesaid.

It thus appears that the interest now asserted was never represented in said suit No. 6612 at the time decree was therein rendered, nor was the interest of Julia Morgan represented in said suit.

2. On the death of Narcissa Deeson all of the property then owned by her husband, Oliver J. Morgan, was community property and consisted of many valuable lands, which in said suit No. 6612 are known as Albion and Wilton plantations & Melbourne place & Morgana plantation and Westland. On the death of Narcissa Deeson her surviving husband became entitled to the usufruct of the share of the community property inherited by her heirs, Julia & Ann Morgan.

5 3. Oliver J. Morgan in the year 1857 commenced suit for a partition of the property of the community aforesaid. On 5th December, 1857, a decree was rendered by the then tenth judicial district court for the parish of Carroll ordering a sale of the same. Sale was made on 18th Jan'y, 1858. Oliver J. Morgan became the purchaser at a price which made him debtor to Julia Morgan & Oliver H. Kelham, Jr., each in the separate sum of $67,495.70, but said price was never paid, unless the facts hereinafter mentioned constituted payment, and the question is submitted to the court.

4th. On 9th March, 1858, Oliver J. Morgan executed an act of donation and sale whereby he transferred all of his property, except the plantation called "Melbourne," to Julia Morgan in
6 settlement of the debt due to her, and to secure her a larger share in his property than would *have* otherwise have gone to her.

In said act of sale and donation, which is found at pp. 55–58 of the printed transcript of said suit No. 6612 as printed for the Supreme Court of the United States, said Oliver J. Morgan treated and considered "Melbourne" plantation, consisting of about 2,171 acres of land, and which had for a long time been in the posses-

sion of Kelham and cultivated by him as his property, set apart and given to Kelham in settlement of the indebtedness due to him as heir of Narcissa Deeson—in fact said plantation was given by Oliver J. Morgan to the ancestor of Oliver H. Kelham, Jr. At that time the lands were uncleared and unimproved.

The ancestor of Oliver H. Kelham, Jr., cleared the lands, built expensive gin-houses, shops, cabins, and dwellings thereon
7 and otherwise improved the plantation and further rendered it fit for cultivation. He remained in possession of the same as owner thereof until his death, in 1855. He was succeeded by his son, Oliver H. Kelham, who occupied and cultivated the said plantation as owner, and was treated as such by his grandfather, Oliver J. Morgan. Oliver H. Kelham having died, his son, Oliver H Kelham, Jr., succeeded him and occupied and cultivated this same plantation as owner, and was so treated by his great grandfather, Oliver J. Morgan, and when said plantation was sold under the decree for partition, in 1857, Oliver H. Kelham, Jr., continued to occupy and cultivate said plantation as owner, and this ownership was recognized by Oliver J. Morgan in the act of sale and donation executed by him on 9th March, 1858, and all the family so
8 treated and have ever regarded Oliver H. Kelham and his successors, and from the time of the original occupation of said plantation by the grandfather of Oliver H. Kelham, Jr., until the death of Oliver J. Morgan the said Oliver J. Morgan had no control over said plantation, and never attempted to exercise any such control, and all the slaves and personal property on the same belonged to said Kelham.

During the late war said plantation was devastated by the Union armies; the buildings were destroyed, the fences burnt, and the ditches filled so that the lands became wild again. John A. Buckner, who had married in 1859 the mother of Oliver H. Kelham, Jr., rebuilt for account of the minor and his heirs the dwelling-house, cabins, gin, fences, etc., at large expense, drained the planta-
9 tion, and put the same in cultivable order. The said plantation has been since overflowed and the houses, cabins, fences, etc., were again destroyed and the ditches filled, and again the said John A. Buckner, for account of the heirs of Oliver H. Kelham, Jr., reinstated said plantation and its improvements at large expense, so that the Kelham family have occupied said plantation and possessed it as owner ever since it was given to the ancestor of Oliver J. Kelham, Jr.

At that time the title to a portion of the plantation, about five hundred acres, was questioned. The Government refused to issue a patent because the lands were entered as a back concession, when it was discovered that there were intervening lands between them and the lands fronting on the river. About two years ago, at large expense, the difficulty was removed and John A. Buckner obtained a patent therefor.

10 Your orator avers that on 9th Dec., 1868, certain creditors of Oliver J. Morgan, who had died in 1860, filed a petition in the probate court of the parish of Carroll, asking the court to

order a sale of the landed property of the deceased situated in the said parish to pay debts.

Your orator, as natural tutor of his daughter, Mollie Buckner, united in said petition, your orator at that time supposing his said daughter sole heir of Oliver J. Kelham, Jr., and supposing the succession of Oliver J. Morgan was indebted to his said daughter in the sum of $67,495.60, with interest since the death of O. J. Morgan, said sum being Kelham's share of the community property adjudicated to O. J. Morgan in 1857.

At that time, your orator supposed that said price was unpaid because no written title to Melbourne had been
11 given by O. J. Morgan to Kelham or his heirs in express terms, and at that time your orator supposed said price was a preferential debt due by the succession of O. J. Morgan, and was a lien on the property donated to Julia Morgan, and he was so advised by his counsel. (See petition, pp. 37 & 38.)

The said probate court granted said order of sale; the property was sold 19th January, 1869. Your orator purchased at said sale all the lands which had been inventoried in the succession of O. J. Morgan as his property, including Melbourne plantation, except 5,040 acres adjudicated to West Montgomery, and "Morgana" plantation, adjudicated to F. M. Goodrich. (See return of sale, p-. 42, 43.)

On 24th Jan'y, 1872, William Gay, a creditor of O. J. Morgan, on behalf of himself and all other creditors, instituted suit in
12 this honorable court against the succession of O. J. Morgan and said Montgomery and said Goodrich and your orator, as purchaser as aforesaid, to set aside and annul said probate sale on the grounds of fraud, the alleged fraud being a combination to defeat the just claims of creditors; all [of] which appears by reference to the suit No. 6612 on the docket of this court.

Your orator avers that he honestly believed at that time that he was, in the capacity of tutor of his daughter aforesaid, a creditor, as alleged, with privilege, and he was so recognized by the executor of O. J. Morgan, who distributed the proceeds of sale of said lands on that basis, and who filed an account making said recognition in said probate court, and said account, after due proceedings, was homologated and confirmed by a judgment of said probate
13 court, rendered on 14th June, 1870; but the Supreme Court of the United States in said suit No. 6612 have rendered a decision in which they have declared the sale of said lands made under said order of said probate court in 1869 to be fraudulent, and that the fraud consisted in your orator pretending to be, as tutor aforesaid, a creditor of the succession of O. J. Morgan for said sum of $67,495.60 with preference, when in reality and in equity there was "no such thing as a debt due from him to his great grandson," etc., because the giving and setting apart said "Melbourne" plantation to the Kelhams was intended to be in satisfaction of the rights of the Kelhams in the succession of Narcissa Deeson, & in point of fact the succession of O. J. Morgan owed no debt to Oliver J. Kelham, Jr.

14 Your orator is well satisfied to accept said plantation on

that basis and abandon all claim as creditor of O. J. Morgan, and now offers so to do on the rendition of a decree recognizing him and his child, Etheline, as owners of said plantation, and he prays such decree may be rendered; but if this view be erroneous and the court should come to the conclusion that O. J. Morgan in his life did not set apart and give said plantation to the Kelhams in satisfaction and extinguishment of their interest in the succession of Narcissa Deeson, then in justice and in equity that interest constitutes a valid claim in favor of your orator and his minor child against the succession of O. J. Morgan, or your orator and his child aforesaid are entitled to one-half of the community property aforesaid in conjunction with Julia Morgan's heirs.

15 Under decree of this honorable court rendered in suit No. 6612 A. G. Brice, master, is now engaged in receiving proof of claims upon the succession of Oliver J. Morgan, and your orator has made presentation of his claim and that of his minor child, with interest from 1860, as their share of the price of the community property sold to O. J. Morgan and never paid, but said claim was presented with reservation of rights to be set forth in this bill and to be insisted on or not as the court may determine.

Your orator avers that such are the complications in which their rights are involved in consequence of the action of Oliver J. Morgan in his lifetime and of his representatives since his decease and of the creditors themselves and such is the difficulty of the

16 legal questions involved that it is impossible, without the aid of the court, to adjust the rights of all parties, and on the foregoing statement of facts your orator asks for such relief as the court in its judgment shall think fit.

To the end, therefore, that the said Stevenson Waters, administrator of the estate of William Gay, deceased, may answer this bill, in the nature of a cross-bill, and the rights of your orator, whatever they be, may be protected in case the property aforesaid be sold under the decree rendered in this suit, and that your orator and his minor child, Etheline, may be decreed to be owners of said "Melbourne" plantation, or owners of one-fourth of the community property sold under said decree of partition to O. J. Morgan, or entitled to an equitable interest in the proceeds of sale of said prop-

17 erty, if ordered to be sold under decree in said suit No. 6212, or entitled as creditor as aforesaid, or to such other relief as the justice of the case demands—

May it please your honors to grant unto your orator the writ of subpœna, directed to Stevenson Waters, administrator of the estate of William Gay, deceased, thro' his solicitor, Julius Aroni, of record, commanding him at a certain time and under a certain penalty to appear before your honors and then and there answer the premises and abide the order and decree of the court; and your orator will ever pray, etc.

(Signed) T. J. SEMMES & PAYNE,
Sol's for Compl'ts.

Appearance of Defendant. Entered July 17th, 1884.

JOHN A. BUCKNER, for Self and as Tutor,
vs.
STEVENSON WATERS, Administrator of the Estate of William Gay, Dec'd. } 10633.

18 The defendant herein, by his solicitor, Julius Aroni, has this day entered his appearance to the complainants' bill of complaint herein.

Agreement. Time Extended to Plead, &c. Filed July 17, 1884.

Circuit Court of the United States for the Eastern District of Louisiana.

JOHN A. BUCKNER, for Himself and for ETHELINE BUCKNER, as Tutor,
vs.
STEVENSON WATERS, Administrator of the Estate of William Gay, Dec'd. } No. 10633.

By mutual consent of plaintiff- and defendant the time for the latter to plead, demur, and answer in the above cause is hereby extended to the rule day in November, 1884.

July 10, 1884.

(Signed) T. J. SEMMES & PAYNE,
Sol's for Compl'ts.
JULIUS ARONI AND
E. M. HUDSON,
Sol's for Respondent.

Demurrer to Bill. Filed Nov. 3d, 1884.

Circuit Court of the United States, Fifth Judicial Circuit,
19 Eastern District of Louisiana.

JOHN A. BUCKNER, for Himself & as Tutor, &c.,
vs.
STEVENSON WATERS, Administrator, &c. } 10633.

The demurrer of Stevenson Waters, administrator, &c., defendant.

This defendant, by protestation, not confessing or acknowledging all or any of the matters in and by said bill of complaint of the complainants set forth and complained of to be true in manner and form as the same are therein and thereby set forth and alleged, says that he is advised that there is no matter or thing in said bill contained to call this defendant to answer or plead thereto, and he demurs to said bill and for cause of demurrer he shows that it appears that said bill of complaint contains not any matter whereon
20 this court can ground any decree or give the complainants any relief against this defendant.

And for special and other causes of demurrer this defendant says—

1st. Said bill of complaint, styled therein a bill in the nature of a cross-bill in relation to the bill of complaint of this defendant, complainant in suit 6612, was filed in this court after the final decree in said cause 6612 had been rendered, and it does not and cannot aid the complainants or any one else in the matters [of] defence to said suit 6612.

2nd. Said complainants have not made parties to their said bill, in the nature of a cross-bill, the heirs of Julia Morgan, Mrs. Mat. F. Johns and Mrs. George G. Johnson, and their husbands; or Matthew F. Johnson, the dative executor of Oliver J. Morgan, and said
21 Morgan's succession, although it appears upon the face of the bill that they are interested in the matters and things of said bill of complaint.

Wherefore, and for divers other good causes of demurrer appearing on said bill, this defendant demurs thereto, and he prays the judgment of this honorable court whether he shall be compelled to make answer to said bill; and he prays to be hence dismissed with his reasonable costs in this behalf expended, and, &c., &c.

(Signed) JULIUS ARONI &
WM. F. & D. C. MELLEN,
Sol'rs of D'f't, Stevenson Waters, Adm'r of Wm. Gay.

STATE OF LOUISIANA, *Parish of Orleans:*

22 Before me, a deputy clerk of the circuit court of the United States, eastern district of Louisiana, personally appeared Julius Aroni, who, being by me duly sworn, states that he is the attorney and solicitor of Stevenson Waters, adm'r of the estate of Wm. Gay, deceased, and defendant herein; that his said client, Waters, is absent from this State, and that the above demurrer is not interposed for delay.

(Signed) JULIUS ARONI.

Sworn to and subscribed before me this 3d day of November, A. D. 1884.

T. McC. HYMAN.
D'y Clerk.

We certify that, in our opinion, the foregoing demurrer is well founded in point of law.

(Signed) W. F. & D. C. MELLEN,
Solicitors for S. Waters, Adm'r.

23 *Demurrer Fixed for Trial.*

Extract from the Minutes.

NEW ORLEANS, TUESDAY, *November* 4, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

JOHN A. BUCKNER
vs.
STEVENSON WATERS, etc. } No. 10633.

On motion of *of* W. F. & D. C. Mellen, solicitors for defendant, it is ordered that the demurrers filed herein be set down for trial on Monday, the 10th instant, at 11 o'clock a. m., and that complainant be notified hereof.

Demurrer Fixed for 11th.

Extract from the Minutes.

NEW ORLEANS, SATURDAY, *November* 8, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

WILLIAM GAY
vs.
OLIVER T. MORGAN, Executor, and Others. } 6612.

24 This case came on to be heard on the petition and motion for injunction and receiver; whereupon the court ordered the same to be continued to Tuesday, the 11th instant, at 11 o'clock a. m., and that the demurrers in Nos. 10633 and 10634, heretofore set down for trial on Monday, the 10th instant, be also continued to the same day, the 11th instant.

Continuance of Demurrer.

Extract from the Minutes.

NEW ORLEANS, TUESDAY, *November 11th*, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

JOHN A. BUCKNER
vs.
STEVENSON WATERS, Administrator. } 10633.

The trial of the demurrer filed in this cause is continued to Thursday, the 13th instant, at 1 o'clock p. m., by consent of
25 parties, in consequence of the absence of Julius Aroni, Esq., solicitor for defendant, seriously ill.

Hearing & Continuance.

Extract from the Minutes.

NEW ORLEANS, THURSDAY, *November* 13, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

JOHN A. BUCKNER
vs. } 10633.
STEVENSON WATERS, Adm'r.

These causes came on to be heard on the demurrers to the bills filed by the defendant, and having heard argument, the court ordered the causes to be continued until to-morrow morning, at 11 o'clock, for further argument.

Demurrer Heard and Submitted.

Extract from the Minutes.

NEW ORLEANS, FRIDAY, *November* 14, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

26

JOHN A. BUCKNER
vs. } 10633.
STEVENSON WATERS, Adm'r.

These two causes came on to be heard further from yesterday upon the demurrer, filed by defendant to the bills, and were argued by counsel and submitted, when the court took time to consider.

Demurrer Overruled.

Extract from the Minutes.

NEW ORLEANS, FRIDAY, *November* 28, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

JOHN A. BUCKNER, for Himself & as under Tutor,
vs. } 10633.
STEVENSON WATERS, Administrator, &c.

This cause came on to be heard on the demurrer to the
27 complainants' bill of complaint, and was argued by counsel for the respective parties.

On consideration whereof it is ordered and decreed that the demurrer be overruled.

Stipulation, filed Jan'y 5, 1885. (See page 76 of this transcript.)

Answer. *Filed Jan'y* 19, 1885.

United States Circuit Court, Eastern District of Louisiana. In Equity.

JOHN A. BUCKNER, for Himself and as Tutor for ETHELINE BUCKNER, a Minor,
vs.
STEVENSON WATERS, Administrator of Wm. Gay, deceased. } 10633.

The answer of Stevenson Waters, administrator of the estate of Wm. Gay, deceased, to the bill of complaint of John A.
28 Buckner and Etheline Buckner, complainants.

This defendant, now and at all times hereafter, saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies in the said bill of complaint of the complainants contained, for answer thereto, or unto so much or such parts thereof as the defendant is advised is material for him to make answer unto, *he* answers and says:

1. He admits the heirship of Narcissa Keene, the wife of Matthew F. Johnson, and Julia H. Morgan, the wife of George G. Johnson, and of the complainants, Jno. A. & Etheline Buckner, as stated in said bill of complaint.

2. He denies that the interest asserted by complainants was
29 not represented in said suit 6612 at the time the decree was rendered therein. He denies that the interest of Julia Morgan, now claimed by said Narcissa, Julia, and Julia H. Johnson, was not represented in said suit 6612.

3. He admits that on the death of Narcissa Deeson all the property of her husband, Oliver J. Morgan, was community property and comprised the Albion, Wilton, Melbourne, Morgana, and Westland plantations; but there was much other property of the community besides the plantations named. He admits that the husband of said Narcissa Deeson became entitled on her death to the usufruct of her share of the community, and that her share of said community was inherited by her heirs, Julia & Ann Morgan, subject to said usufruct.

4. He admits that Oliver J. Morgan, in the year 1857, com-
30 menced suit for a partition of the property of the community, and that in pursuance of a decree rendered therein sale was made on the 18th day of January, 1858, and that at said sale Oliver J. Morgan became the purchaser of the whole of the said community at a price which made him a debtor to Julia Morgan & Oliver H. Kelham, Jr., each in the sum of $67,495.70. He denies that said sums were never paid, and he avers that neither of said sums nor any part thereof is now a valid or subsisting claim of the complainants, or either of them, or in favor of said Johnsons, or either of them, or any other person, which can be enforced against said five plantations or the succession of Oliver J. Morgan; all of
31 which will hereinafter more fully appear.

5. He admits that on the 9th of March, 1858, Oliver J. Morgan executed said so-called act of donation and sale, whereby he un-

dertook to transfer all his property, except the Melbourne plantation, to said Julia Morgan in settlement of the debt due to her and to secure to her a larger share of his property than she would have in law been entitled to; but this defendant avers that said so-called act of donation and sale never did convey to said Julia Morgan, or any one else, the said property therein attempted to be conveyed, or any part thereof or any interest therein; that said act of donation and sale was an act prohibited by law and was of no effect as a donation or as a sale, but was illegal, null, and void, and has
32 been so declared by the Supreme Court of the United States in said cause 6612, to which decision, as reported in 111 U. S. Reports, at p. 640 and pp. 645 and following, reference is now made for a statement of the objections to said act. And this defendant here further states that he is advised, and so charges the truth to be, that said act of donation was not valid as a sale or as a donation, in whole or in part; that it was not valid as a donation for the reasons stated by the said Supreme Court, and it was not valid as a sale for the reasons there stated, and for the further reason that the act was wanting in the elements that constitute a sale under the laws of the State of Louisiana.

33 Further, this defendant answers that said act of sale and donation was not regarded or treated as valid by either of the parties thereto; that neither the said Julia Morgan nor her representatives ever entered into possession or claimed the right of possession under said act of donation and sale of the plantations therein conveyed; that the said Oliver J. Morgan continued to be the absolute owner of said plantations named therein up to the time of his death, and then by last will sought to convey them to his said daughter Julia to the same extent as he had before sought to convey them to her in and by said null and void act of donation and sale.

6. Further, he denies that in and by said act of donation and sale there was any transfer or conveyance, or attempted transfer or conveyance, of said Melbourne plantation or other property
34 to said Oliver H. Kelham, Jr., or to the complainants, or either of them, or to any one under, through, or from whom they claim title; that defendant is advised and charges that at the same time that said act of donation and sale was made the said Oliver J. Morgan desired and sought to convey the Melbourne plantation and other property to said Oliver H. Kelham, Jr., his great grandson, so as to satisfy and extinguish his said indebtedness to his said great grandson, then represented by his mother, the said Melinda Kelham, his natural tutrix, then married to said complainant, Jno. A. Buckner, who by virtue of his marriage with said Melinda became a tutor of said Oliver H. Kelham, Jr., and to this end said Oliver J. Morgan caused an act of sale and donation
35 to be prepared, of like form and tenor as the one set out by the complainants, whereby he expected to convey said Melbourne and other property to his said great grandson, reserving to himself the usufruct; but the same was refused and declined by said Melinda and said Jno. H. Buckner, representing said Oliver

H. Kelham, Jr., and was for that reason never executed by said Oliver J. Morgan; that the complainants never were, nor was either of them, nor was any one of them, from, through, and under whom they claim, ever at any time in possession of said Melbourne plantation under or by virtue of any such act of donation and sale; that the last will and testament of said Oliver J. Morgan never named his said great grandson, Oliver H. Kelham, Jr., nor instituted him as heir to any part of the large estate of said Oliver J.
36 Morgan, but did devise and bequeath all his landed estate, except Melbourne plantation, to his said daughter Julia, and left the Melbourne plantation to be inherited as a forced heir-at-law by said Kelham, his great grandson; that if the complainants, or any of those through, under, or from whom they claim, have any title to the Melbourne plantation it is by virtue of their inheritance as heirs-at-law of those who inherited from said Kelham, who, as forced heir-at-law, inherited the same from his great grandfather, Oliver J. Morgan, and he submits that the claims of this defendant against the succession of Oliver J. Morgan are paramount to any title in or to said lands which complainants may have inherited.

7. Further answers that on the death of said Oliver J.
37 Morgan, in 1860, said five plantations were inventoried as the property of said Oliver J. Morgan, of which said Jno. A. Buckner and his said wife Melinda, individually and as tutrix, had full knowledge, and to which they assented; and that afterwards, to wit, in 1868, the said Jno. A. Buckner, individually and as natural tutor of his daughter, Mollie Buckner—sometimes called Louisa and sometimes called Mollie—who had inherited the said Kelham interest and under and through [whom] complainants claim, again caused said Melbourne to be inventoried as the property of said Oliver J. Morgan's succession, and caused them to be sold as the property of the said succession of Oliver J. Morgan; that complainants are thereby estopped from setting up or asserting any title to said Melbourne plantation.

38 8. Further answering, this defendant denies that said Oliver J. Morgan ever treated or considered the Melbourne plantation as the property of said Kelham, or of any heir or descendant of Ann Morgan; that he ever set apart or gave the same to said Kelham in settlement of said indebtedness, or that he ever considered or regarded or thought that he had done so. It may be that said Oliver J. Morgan may have, during his life, permitted his son, his grandson, and great grandson successively to occupy and cultivate said Melbourne plantation and approprate the incomes therefrom, but this defendant denies that said Oliver J. Morgan ever conveyed said Melbourne plantation to said son, grandson, or great grandson, or that he ever intended or attempted
39 to convey the same, except as hereinbefore stated. From the time that the community property was bought in by said Oliver J. Morgan under the partition sale up to the time of his death he always acted as owner of the whole property.

9. This defendant knows nothing of the allegations of the bill of complaint of the devastations of said plantation, or the repairs

or improvements thereon, but he submits to the court if the complainants or either of them did reinstate and rehabilitate said plantation at an expense to themselves that such acts enured to the benefit of the succession of said Oliver J. Morgan, and the complainants could at most, under any circumstances, have a
40 claim for reimbursement of such expenses against said succession; but defendant denies that complainants have any right whatever, either at law or in equity, to such reimbursement; and if it be true, as alleged, that said Buckner perfected the title to any part of any one of the plantations, as stated in the bill of complaint, then the money and labor expended therein enured to the benefit of said succession of Oliver J. Morgan, and complainants could at most have had a claim for reimbursement, and this is denied by defendant.

10. He admits that proceedings were instituted in 1868, in which the court was asked to order a sale of the landed property of said O. J. Morgan, and that said proceedings purported to be to pay debts. He admits that said Jno. A. Buckner, as natural tutor
41 of his daughter, said Mollie or Louisa Buckner, was a party to the petition in and by which said proceedings were commenced, and that he set up said pretended claim of $67,495.70 and interest thereon since the death of O. J. Morgan; but he denies that the same was a petition of creditors, or that said Buckner merely united therein. And he avers that parties named as creditors in said petition (except said Buckner and his said daughter) never had any knowledge that said proceedings were about to be instituted, and never authorized the use of their names therein, nor ratified the said use of their names. And further, said Buckner, individually and as natural tutor of his daughter, was the only real petitioner therein; and that said petition was filed and said proceedings were instituted to carry out and accomplish the ob-
42 jects and purposes of a combination and conspiracy between said Buckner, said Oliver T. Morgan, the executor of Julia Morgan and dative testamentary executor of Oliver J. Morgan, and the other representatives of Julia Morgan, and J. West Montgomery, and others, to defraud the creditors of O. J. Morgan and his succession and acquire title in the name of and for the benefit of said Buckner and daughter and said heirs of Julia Morgan and the attorneys engaged therein. He admits that an order of sale was granted, and that under said order said five plantations were sold in January, 1869, and that at said sale said Buckner purchased the Melbourne plantation and, defendant avers, also the Albion and Wilton plantations, and that these three plantations were the most valu-
43 able parts of the property of said succession of O. J. Morgan.

11. He admits that in 1872 said Wm. Gay, a creditor of said O. J. Morgan, instituted suit in this court against the succession of Oliver J. Morgan, said Montgomery & Goodrich, and said Buckner to set aside and annul said probate sale on the ground of fraud to defeat the just claims of the creditors of said O. J. Morgan. He admits that said executor of Oliver J. Morgan filed an account, and that the

same was homologated and confirmed by judgment in the court of East Carroll parish, in 1870. He admits that the Supreme Court of the United States, in said suit No. 6612 of this court, have in and by their decision declared said sales made under the orders of said court in Carroll parish fraudulent, and that the said court
44 stated that there was a fraud in said Buckner's pretending to be, as tutor as aforesaid of his daughter, Mollie or Louisa, a creditor of the succession of Oliver J. Morgan for said sum of $67.495.70, when in reality there was no such thing as a debt due from him to his great grandson, but he denies that such was the only ground on which said court based its conclusions of fraud. He denies that said court held said alleged indebtedness to be a pretence and a sham because the giving and setting apart of said Melbourne plantation to the Kelhams was intended to be in satisfaction of said alleged debt. It is true, in point of fact, that the succession of Oliver J. Morgan owed no debt to Oliver H. Kelham and owes none now, but he denies that said Melbourne plantation was ever given
45 or set apart to said Kelham in satisfaction of said debt, or was ever given or set apart to him at all, except in and by the last will of said Oliver J. Morgan, in which he devised and bequeathed to his daughter Julia three-fourths of his estate and left the other fourth, including said Melbourne plantation, to be inherited by said Kelham as his heir-at-law.

12. He denies that in taking said proceedings of 1868 & 1869, resulting in said sales of 1869 (annulled and set aside for fraud by the Supreme Court), said Buckner was acting in good faith; he denies that any moneys were paid by any of said pretended purchasers at said sale of 1869; he denies that said executor, O. T. Morgan, received or disbursed a dollar, as stated by his said account and
46 alleged in the bill of complaint; and he avers that said account was but a part of the said fraudulent scheme, and was as false and fraudulent as said proceedings and said sales, and that the Supreme Court has declared the whole proceedings in all their parts null and void.

And this defendant here reiterates and avers that said Jno. A. Buckner, those then claiming and those then representing the Kelham interests, and from and through whom the complainants now claim title to said Melbourne plantation, allowed without opposition, and assented thereto, the said Melbourne plantation to be inventoried as the property of said Oliver J. Morgan in 1860 on his death; and again, in said proceedings of 1868 & 1869, said Jno. A. Buckner, individually and as tutor of his said daughter, Mollie or
47 Louisa, caused said Melbourne plantation to be inventoried and sold as the property of O. J. Morgan, and he submits and says that thereby complainants are estopped from setting up any claim to said Melbourne plantation as the property of them or either of them.

13. Further answering, this defendant says that upon the death of said Oliver J. Morgan the complainant, Jno. A. Buckner, and those under whom the complainants now claim, by connivance and in collusion with said Julia Morgan, and on her death her heirs,

Narcissa K. Johnson and Julia H. Johnson, and their husbands, and said Oliver T. Morgan, executor of O. J. Morgan & executor of said Julia Morgan, and said Matthew F. Johnson, dative testamentary executor of Oliver J. Morgan and Julia Morgan, entered upon and continued in the possession, management, and control,
48 and exercising acts of ownership over said Melbourne plantation and other property of said O. J. Morgan, appropriating to themselves all the rents, incomes, and profits therefrom and paying no debts of said succession; that such possession, management, and exercise of ownership continued until a few weeks ago, when the property was by the order of this court placed in the hands of a receiver; that from the date of the death of said O. J. Morgan, in 1860, up to the time of said suit 6612, the complainant, Jno. A. Buckner, and those under whom complainants now claim, and said Julia Morgan and her representatives took and appropriated to themselves not less than $220,000.00 in value of the assets of the succession of said O. J. Morgan, as will appear by reference to said suit 6612, of which complainants and those under whom they claim
49 received not less than $110,000.00 and the said Julia Morgan and her representatives the rest; that, upon information and belief, he charges that since the filing of the bill of complaint in said cause 6612 the same parties have taken and appropriated assets of said succession not less than $250,000.00 in value, of which complainants and those under whom they claim have received not less $125,000.00; that besides the said effects or assets so received as aforesaid the complainants are liable to said O. J. Morgan's succession for rents of the said Melbourne plantation and other property of said succession occupied and cultivated by them and those under whom they claim in a sum of not less than $150,000.00.

And this defendant submits to the court that until the complainants shall account for these moneys and pay the same into
50 the hands of the receiver in said cause 6612 the complainants have no standing in a court of equity to enforce said pretended claim against the succession of O. J. Morgan, or to be admitted to an equal standing with defendant. And he further says that in and by said receipts of assets and said liability for rents said pretended claim, if it ever existed after the death of O. J. Morgan, has been more than compensated and paid and set off.

14. Further answering, he says that the said Jno. A. Buckner, individually and as tutor, and those under and through whom complainants claim, by their acts and exercise of ownership and taking and appropriating as their own the incomes and profits of said lands and the assets of said succession, as before stated, and other acts shown in said cause 6612, accepted purely and simply and
51 without benefit of inventory the said succession of said O. J. Morgan, and thereby (the said John A. Buckner individually as an intermeddler) became personally liable for the debt due by said Morgan to this defendant, and the complainants cannot now be permitted to assert said pretended claim against the said plantations to the prejudice of this defendant.

15. Further, this defendant says that the interests in said bill of

complaint of complainants set forth and claimed by them, and therein spoken of as the Kelham interest, were subject-matters of said suit 6612; and that the said complainant, Jno. A. Buckner, individually and as tutor of his minor child, said Mollie or Louisa Buckner, under and through whom complainants now claim, were parties to said suit, and this defendant was a party to said suit; and that the
52 Supreme Court of the United States, in and by its final judgment and decree in said cause, adjudged and decreed that the said Jno. A. Buckner, individually and as tutor aforesaid, and the said Kelham interest were not the owners of any of said plantations, or any part thereof, and could not claim the same, but that all of said plantations were the property of the succession of said O. J. Morgan, and decreed them to be sold as the property of said succession of Oliver J. Morgan to satisfy the debt due this defendant and other debts due by said succession. And this defendant now avers and pleads that as to the claim of complainants to said Melbourne plantation as lands the said final decree of the Supreme Court has the force and effect of the thing adjudged against said Jno. A. Buckner and said Etheline, and each of them, and this defendant pleads the same accordingly.

53 And as to the money demanded of complainants he says that said final decree was in favor of this defendant; that such demand was not just or correct or a debt due by said succession of O. J. Morgan, and said decree has the force and effect of the thing adjudged against the complainants herein and each of them, and he pleads the same accordingly.

16. Further answering, this defendant says that as to said money demanded of complainants the said Jno. A. Buckner, individually and as tutor of said Mollie or Louisa Buckner, under and through whom the complainants now claim, was a party to said fraudulent proceedings and sales of 1868 and 1869, annulled as aforesaid by said final decree of said Supreme Court, and that by the efforts of said William Gay and this defendant, his administrator, said frauds were unearthed and exposed, and said fraudulent sales set
54 aside, and that the complainants cannot now be permitted to enjoy and share alike with this defendant the fruits of his victory.

17. Further answering, he says that said money demanded of the complainants is barred by the prescriptions of three, five, and ten years, and by reason thereof the complainants cannot recover; and this defendant to said money demand for $67,495.70 and interest pleads the prescription of three, five, and ten years.

Now, having fully answered, he prays to be hence dismissed with all his costs and charges in this behalf most wrongfully expended, and for all and general relief, and as, &c.

S. WATERS, *Adm'r*,
By W. F. MELLEN, *Sol'r.*

J. ARONI,
W. F. & D. C. MELLEN,
Solicitors for Defendant.

55 *Bill in the Nature of a Supplemental Bill in the Nature of a Cross-Bill. Filed 10th July,* 1884.

UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

NARCISSA KEENE, Wife of Mathew F. Johnson, *et al.*
v.
STEVENSON WATERS, Administrator of the Estate of William Gay, Deceased. } No. 10634.

To the honorable the judges of the circuit court of the United States for the eastern district of Louisiana:

Narcissa K. Keene, wife of Mathew F. Johnson, and Julia H. Morgan, wife of George G. Johnson, and the said Mathew F. Johnson and George G. Johnson, uniting as complainants with their said wives, bring this their original bill, in the nature of a sup-
56 -lemental bill and in the nature of a cross-bill, against Stevenson Waters, administrator of the estate of William Gay, deceased.

And thereupon your orators and oratrixes, who will hereafter style themselves your orators, complain and say:

1. That all of your orators are citizens of the State of Mississippi and the defendant, Stevenson Waters, is a citizen of the State of Kentucky.

2. That your oratrixes, Narcissa K. Keene and Julia H. Morgan, in conjunction with John A. Buckner and his daughter, Etheline, are the sole heirs of Narcissa Deeson, deceased, wife of Oliver J. Morgan, deceased. Said Narcissa Deeson died in 1844, leaving her surviving two children, her sole heirs, to wit, Julia Morgan and Ann Morgan; Oliver H. Morgan, the father of these children, died in 1860. Julia Morgan married Alexander Keene, and by him had several children, of whom your oratrix, Narcissa, alone
57 survives, her brothers and sisters having died intestate and unmarried. Keene having died, Julia Morgan married Oliver T. Morgan, and by him had a daughter, your oratrix, Julia H. Morgan. Julia Morgan died in 1868, and Oliver T. Morgan died in 1873.

It thus appears that the interest now asserted by your oratrices, as heirs of Julia Morgan, was not represented in the suit No. 6612, pending in this court, and to which reference will be made hereafter and more at length.

Ann Morgan married John H. Kelham, and when Oliver J. Morgan died, in 1860, Oliver H. Kelham, Jr., his great grandson, was the sole heir of Ann Morgan, who had died during the lifetime of her father, and said great grandson was the other heir of Narcissa Deeson, deceased, wife of said Oliver J. Morgan. The Kelham interest in the succession of Narcissa Deeson has become vested in

John A. Buckner, who married Mrs. Kelham, and in Etheline Buckner, a daughter of said John A. Buckner by a second marriage.

3. On the death of Narcissa Deeson all of the property then owned by her husband, Oliver J. Morgan, was community property and consisted of many valuable lands, and in said suit No. 6612 are known as "Albion" and "Wilton" plantations and "Melbourne" place and "Morgana" plantation and "Westland." On the death of Narcissa Deeson her surviving husband became entitled to the usufruct of the share of the community property inherited by her heirs, Julia and Ann Morgan.

4. Oliver J. Morgan, in the year 1857, commenced suit for a partition of the community property aforesaid. On 5 December, 1857, a decree was rendered ordering a sale of the same. Sale was made 18 Jan., 1858. Oliver J. Morgan became the purchaser at a price which made him a debtor to Julia Morgan and Oliver H. Kelham, Jr., then a minor, in the separate sum of $67,495.60 each; but said price was never paid, unless the facts hereinafter mentioned constituted payment, and the question of payment is submitted to the court.

5. On 9 March, 1858, Oliver J. Morgan executed a notarial act, which is called an act of sale and donation and is found at page 55–'9 of the record of said suit No. 6612 as printed for the Supreme Court of the United States. Said act of sale and donation purports to be a transfer of all the real estate owned by said Oliver J. Morgan (some of which was acquired by him after the death of his wife and is so stated in the act) to his daughter, Julia Morgan, at that time married to Oliver T. Morgan. The only plantation excepted from the transfer was "Melbourne" plantation, consisting of about 2,171 acres, which some time before he had set apart and given to Oliver H. Kelham, Jr., and his ancestor, in settlement of the debt of $67,495.60, due him as heir of Narcissa Deeson.

6. Notwithstanding Oliver J. Morgan was indebted, as aforesaid, to Oliver H. Kelham, Jr., and Julia Morgan, as heirs of his deceased wife, he claimed the usufruct on said indebtedness under said act of 1844.

In said act of sale and donation the writer of the instrument inserted a clause whereby the donor and vendor retained possession of the property conveyed and the revenues thereof until his death, but this reservation in the body of the instrument was reduced by addenda made just before signing, to the following effect:

"It is understood that the reservation of the rights of O. J. Morgan as usufructuary is as to the legal usufruct under the act of 1844 to the extent of the community property, and this act or delivery under it is to take place and effect on the day of my death."

Now, it is true that the Supreme Court of the United States, in a collateral proceeding instituted by William Gay, a creditor of O. J. Morgan, against the succession of O. J. Morgan and others to set aside certain sales made at the instance of other creditors of said O. J. Morgan by the order of the probate court of the parish of Carroll, has intimated in its opinion delivered in

that case, which is the suit aforesaid, No. 6612, that said act of sale and donation was void because of said reservation; yet your orators aver they were not parties to said suit, and their interests were not represented therein, and they are not affected by said opinion or decree; they aver that said addenda which confined the reservation to the legal usufruct given by the act of 1844 to the surviving spouse as to community property was not such reservation to the donor of a usufruct or property donated by him as is prohibited by article 1520 of the civil code, and said addenda restricted the reservation to community property only.

But should the court hold said act of sale and donation to
62 be void, then and in that event said donation did not constitute payment of the price which said Oliver J. Morgan had bid at the partition sale, and which he agreed to pay, and hence in equity the said Oliver J. Morgan never became owner of the rights of the heirs of Narcissa Deeson in the community property aforesaid, and the creditors of Oliver J. Morgan have no greater rights in the community property than their author had, and your orators, in right of their grandmother, are entitled to one-quarter of all the real estate which was inventoried as community property in said partition suit, commenced in the year 1857 by O. J. Morgan, and which was adjudicated to him at said partition sale.

7. Your orators aver that a suit was commenced in this honorable court in the year 1872, said suit being No. 6612 on the docket, in which William Gay, a creditor of Oliver J. Morgan, on behalf of himself and other creditors of said Morgan, sought to set
63 aside and annul a judicial sale of all the property which the said Oliver J. Morgan owned at the time of said donation and act of sale, including "Melbourne" plantation, which is not mentioned in said act of donation and sale.

Said sale was applied for by certain creditors of Oliver J. Morgan to the probate court of the parish of Carroll on 9 Dec., 1868 (printed transcript, p. 134), and at the same time Oliver T. Morgan, as the executor of the will of Julia Morgan, applied to the same court for the sale of Julia Morgan's interest in all of said lands, under the impression that the debt due to Oliver H. Kelham, Jr., arising out of the sale of the community property aforesaid, was a debt due by Oliver J. Morgan, deceased, bearing mortgage on the property donated to Julia Morgan as aforesaid. (Printed transcript, p. 137.)

But your orators aver that Oliver T. Morgan, as executor of his wife, had no authority to bind the interest of your orators in the estate of their mother, and in no manner represented them.
64 At said judicial sale a part of the property was adjudicated to John A. Buckner, a part to West Montgomery, and a part to Ferdinand M. Goodrich, as is set forth in the bill filed in said suit, No. 6612, pp. 5 & 6.

8. Your orators aver that said sales have been set aside and annulled as fraudulent as to the creditors of Oliver J. Morgan, deceased, whose succession is insolvent, as appears by the final decree rendered in said suit No. 6612, pursuant to the mandate of the Supreme Court of the United States.

9. That said decree, so far as these complainants are concerned, reinstates the creditors of said Oliver J. Morgan in the position occupied by them prior to the sale of said property under order of the probate court of the parish of Carroll, in 1869.

At that time Mollie Buckner, minor child of John A. Buckner, was owner of the Kelham interest and your oratrixes were owners of the interest of Julia Morgan. Now, if said act of sale be
65 valid, your oratrixes were entitled to all the property included in the donation; if said donation be invalid, then your oratrixes were covenders with Kelham of the community property and entitled to be paid $67,495.60 as the price of the community property coming to your oratrixes; and, as said price was never paid, your oratrixes are either to be considered owners of one-half Narcissa Deeson's succession or as creditors of Oliver J. Morgan, and as such entitled to be paid $67,495.60, with interest from 1860. No payment of said sum was ever made to Julia Morgan or her heirs, and in equity and according to the laws of Louisiana the vendee who has not paid the price of property purchased by him is not treated as owner thereof.

Under decree of this honorable court in said suit No. 6612, which is referred to as part hereof, the master, A. G. Brice, is now engaged in receiving proof of claims upon the succession of Oliver J. Morgan, and your orators have made presentation of their said claim
66 for $67,495.60, with interest from 1860, as their share of the price of the community property sold to O. J. Morgan and never paid; but said claim was presented with reservation of rights to be set forth in this bill and to be insisted on or not as the court may determine.

Your orators aver that such are the complications in which their rights are involved in consequence of the action of Oliver J. Morgan in his lifetime, of his representatives since his decease, and of the creditors themselves, and such is the difficulty of the legal questions involved that it is impossible, without the aid of a court of equity, to unravel the knot and adjust the rights of all parties, and on the foregoing statement of facts your orators ask for such relief as the nature of the case and the court in its judgment shall think just and equitable.

To the end, therefore, that the defendant, Stevenson Waters, administrator of the estate of William Gay, may answer this bill
67 and the facts therein set forth, and that the rights of your orators may be protected in case the property aforesaid should be sold under the decree rendered in said suit No. 6612, or that your orators may be decreed to be owners of all the property designated in said act of sale and donation, or of such part of it as may be equitable, or that your oratrixes be decreed to be owners of one-fourth of the community property sold to O. J. Morgan under the decree for partition and never paid for by him, or that your oratrices be entitled to an equitable interest in the proceeds of the property aforesaid, if sold under said decree in suit No. 6612, or entitled as creditors as aforesaid, or such other relief as the justice of the case demands—

May it please your honors to grant unto your orators the writ of subpœna, directed to Stevenson Waters, administrator of the estate of William Gay, deceased, through his solicitor of record, Julius Aroni, commanding him at a certain day to appear before your honors and then and there answer the premises and abide the order and
68 decree of the court; and your orators will ever pray, etc.

(Signed) E. J. SEMMES & PAYNE,
Solicitors for Complainants.

Appearance.

Extract from Chancery Order-Book.

NARCISSA KEENE, Wife of Mathew F. Johnson,
v.
STEVENSON WATERS, Adm'r of Estate of Wm. Gay, Dec'd. } 10634.

THURSDAY, *July* 17*th*, 1884.

The defendant herein, by his solicitor, Julius Aroni, has this day entered his appearance to the complainants' bill of complaint herein.

Agreement Extending Time, etc. Filed July 17*th*, 1884.

Circuit Court of the United States for the Eastern District of Louisiana.

NARCISSA KEENE, Wife of Mathew F. Johnson, *et al.*
v.
STEVENSON WATERS, Administrator of the Estate of William Gay, Dec'd. } No. 10634.

69 By mutual consent of plaintiffs and defendant the time for the latter to demur, plead, and answer in the above cause is hereby extended to the rule day in November, 1884.

July 10, 1884.

(Signed) T. J. SEMMES & PAYNE,
Solicitors for Complainants.

(Signed) JULIUS ARONI AND E. M. HUDSON,
Solicitors for Respondent.

Demurrer to Bill. Filed November 3*d*, 1884.

Circuit Court of the United States, Fifth Judicial Circuit, Eastern District of Louisiana.

Mrs. NARCISSA KEENE, Wife of Mathew F. Johnson, *et al.*
v.
STEVENSON WATERS, Administrator of Wm. Gay, Deceased. } No. 10634.

The demurrer of Stevenson Waters, administrator, etc., defendant.

This defendant, by protestation, not confessing or acknowledging all or any of the matters in said bill of complaint (in the nature of a supplemental bill and in the nature of a cross-bill, as erroneously

styled therein) set forth and complained of to be true, says
70 that he is advised that there is no matter or thing in said bill contained to require this defendant to plead or answer thereto, and he demurs to said bill, and for cause of demurrer he says that said bill of complaint does not contain any matter whereon this court can ground any decree or give the complainants any relief against this defendant.

And, for special and other cause of demurrer, this defendant says:

1st. Said bill of complaint, styled therein a bill in the nature of a supplemental bill, is not as to any matter or thing therein contained a bill supplemental to the bill of complaint in said suit 6612, and the relief sought is not within the reach or province of a supplemental bill.

2nd. Said bill of complaint, styled therein a bill in the nature of a cross-bill, is not as to any matter or thing therein contained a cross-bill in relation to the bill of complaint of this defendant,
71 complainant in said suit 6612; it was filed after this final decree in said suit 6612 had been rendered, and it has not for its object to aid said complainants therein or any other persons in their defence to said suit 6612.

3rd. The heirs of Ann Morgan, Oliver H. Kelham, Jr., and Mollie Buckner, *alias* Louisa Buckner, and Matthew F. Johnson, executor of Oliver J. Morgan, and said Morgan's succession [are] not made parties to said bill, although it appears upon the face of the bill that they are interested in the matters and things of said bill of complaint.

Wherefore, and for divers other good causes of demurrer appearing in said bill, this defendant demurs thereto, and he prays the judgment of this honorable court whether he shall be compelled to make answer to said bill; and he prays to be hence dismissed with his reasonable costs in this behalf expended, and as, etc.

72 (Signed) JULIUS ARONI AND
WM. F. & D. C. MELLEN,
Solicitors for Def't Waters, Adm'r, etc.

STATE OF LOUISIANA, *Parish of Orleans:*

Before me, a deputy clerk of the circuit court of the United States, eastern district of Louisiana, personally appeared Julius Aroni, who, being by me duly sworn, states that he is the attorney and solicitor of Stevenson Waters, administrator of the estate of Wm. Gay, deceased; that his said client, Waters, is absent from this State, and that the above demurrer is not interposed for delay.

(Signed) JULIUS ARONI.

Sworn to and subscribed before me this 3d day of November, A. D. 1884.

(Signed) T. McC. HYMAN,
D'y Clerk.

We certify that, in our opinion, the foregoing demurrer is well founded in point of law.

(Signed) W. F. & D. C. MELLEN,
Solicitors for S. Waters, Adm'r.

73 *Demurrer Fixed for Hearing.*

Extract from the Minutes. November Term, 1884.

NEW ORLEANS, TUESDAY, *November* 4, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

Mrs. NARCISSA KEENE *et als.*
v.
STEVENSON WATERS, Administrator, &c. } 10634.

On motion of W. F. & D. C. Mellen, solicitors for defendant, it is ordered that the demurrers filed herein be set down for trial on Monday, the 10th instant, at 11 o'clock a. m., and that complainants be notified hereof.

Demurrer Reassigned for Hearing.

Extract from the Minutes. November Term, 1884.

NEW ORLEANS, SATURDAY, *November* 8, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

WILLIAM GAY
v.
OLIVER T. MORGAN, Executor, and Others. } 6612.

This case came on to be heard on the petition and motion
74 for injunction and receiver, whereupon the court ordered the same to be continued to Tuesday, the 11th instant, at 11 o'clock a. m., and that the demurrers in Nos. 10633 and 10634, heretofore set down for trial on Monday, the 10th instant, be also continued to the same day, the 11th instant.

Demurrer Continued.

Extract from the Minutes. November Term, 1884.

NEW ORLEANS, TUESDAY, *November* 11, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

Mrs. N. KEENE *et al.*
v.
STEVENSON WATERS, Administrator. } 10634.

Owing to the absence of Julius Aroni, Esq., solicitor for defendant, in consequence of serious illness, solicitors for the several parties

present in court agreeing hereto, the trial of the demurrer filed in this cause is continued to Thursday, the 13th instant, at 1 o'clock p. m.

Hearing and Continuance of Demurrer.

75 Extract from the Minutes. November Term, 1884.

NEW ORLEANS, THURSDAY, *November* 13, 1886.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

Mrs. N. KEEN *et al.*
v.
STEVENSON WATERS, Adm'r. } 10634.

These causes came on to be heard on the demurrers to the bills filed by the defendant, and, having heard argument, the court ordered the causes to be continued until to-morrow morning at 11 o'clock for further argument.

Demurrer Heard and Submitted.

Extract from the Minutes. November Term, 1884.

NEW ORLEANS, FRIDAY, *November* 14, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

Mrs. N. KEENE *et al.*
v.
STEVENSON WATERS, Adm'r. } 10634.

These two causes came on to be further heard from yesterday upon the demurrers filed by defendant to the bills, and were
76 argued by counsel and submitted, when the court took time to consider.

Demurrer Overruled.

Extract from the Minutes. November Term, 1884.

NEW ORLEANS, FRIDAY, *November* 28, 1884.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.

Mrs. N. KEENE *et al.*
v.
STEVENSON WATERS, Administrator, etc. } 10634.

This cause came on to be heard on the demurrer to the complainants' bill of complaint, and was argued by both counsel for the respective parties; on consideration whereof it is ordered and decreed that the demurrer be overruled.

Stipulation. Filed January 5, 1885.

United States Circuit Court, Eastern District of Louisiana. In Equity.

JNO. A. BUCKNER *et als.*
v.
S. WATERS, Adm'r, etc. } 10633.

NARCISSE J. JOHNSON *et als.*
v.
SAME. } 10634.

It is stipulated that the defendant have fifteen days from
77 this date within which to file his answers to the bills of complaint in the above-entitled causes.

New Orleans, Jan'y 5, '85.

(Signed) THOS. J. SEMMES,
Sol. for Compl'ts.

(Signed) W. F. & D. C. MELLEN,
Sol's for Def't.

Answer. Filed January 19th, 1885.

Circuit Court of the United States, Eastern District of Louisiana. In Equity.

NARCISSA KEENE, Wife of Matthew T. Johnson, and Others
v.
S. WATERS, Administrator of the Estate of Wm. Gay, Deceased. } No. 10634.

The answer of Stevenson Waters, administrator of the estate of Wm. Gay, deceased, to the bill of complaint of Narcissa Keene, wife of Matthew F. Johnson, *et als.*, complainants.

This defendant, now and at all times hereafter, saving and reserving to himself all manner of benefit and advantage of exception to the many errors and insufficiencies in the said bill of complaint
78 of complainants contained, for answer thereto, or unto so much or such parts thereof as the defendant is advised is material for him to make answer unto, *he* answers and says:

1. He admits the heirship of complainants, Narcissa and Julia H. Johnson and of Jno. A. Buckner and Etheline Buckner, as stated in the bill of complaint. He denies that the interest asserted by complainants was not represented in said suit 6612 in this court and described in said bill of complaint.

2. He admits that on the death of Narcissa Deeson all the property owned by her husband, said Oliver J. Morgan, was community property, and included the Albion, Wilton, Morgana, Westland, and Melbourne plantations, and that on the death of said Narcissa her surviving husband became entitled to the usufruct of the share of

the community property inherited by her heirs, Julia and Ann Morgan.

3. He admits the partition suit begun by said Oliver J. Morgan in 1857, and that under the decree of court rendered therein a sale of all said community property was made, and that said Oliver J. Morgan at said sale became the purchaser of said community property at a price which made him a debtor to said Julia Morgan in the sum of $67,495.70 and to said Oliver H. Kelham, Jr., in a like sum. He denies that said sums were never paid, and he avers that neither of said sums nor any part of them is now a valid or subsisting claim in favor of the complainants, or any of them, or any other person, which can be enforced against said plantations or the succession of said Oliver J. Morgan; all of which will hereinafter more fully appear.

79

4. He admits that on March 9th, 1858, said Oliver J. Morgan executed said so-called act of sale and donation, and that it purports to be a transfer of all the real estate owned by him to said Julia Morgan, except the said Melbourne plantation; but he denies that any lands described therein were acquired by him after the death of his wife, said Narcissa Deeson He denies that said Oliver J. Morgan ever at any time set apart and gave or transferred said Melbourne plantation to said Oliver H. Kelham, Jr., or any one else, in settlement of said debt of $67,495.70, or for any other pupose. He denies that said debt was due to said Oliver H. Kelham, Jr., as heir of Narcissa Deeson, and he here avers that said so-called act of sale and donation is null and void; that it is not valid, in whole or in part, either as a donation or a sale, nor partly as a donation and partly as a sale, and it conveys no interest whatever in said lands described therein to said Julia Morgan or any one else; that the Supreme Court of the United States in said cause 6612, as reported in Vol. III of the United States Supreme Court Reports, has declared said instrument to be null and void; that as a sale it is wanting in the characteristics of a sale and as a donation it is prohibited by law.

80

5th. He denies that said Narcissa K. Johnson and husband and said Julia H. Morgan and husband were not parties to said suit 6612, or their — not represented therein, or that they are not affected by said declaration of the Supreme Court. On the contrary, he avers that when said suit was instituted the succession of said Julia Morgan was in the hands of and represented by Oliver T. Morgan, the husband of said Julia Morgan; that Oliver T. Morgan was then the duly qualified executor of the succession of said Julia Morgan and at the same time the executor of said Oliver J. Morgan's succession; that on the death of said Oliver T. Morgan, pending said suit, said Matthew F. Johnson, the husband of said Narcissa K. Johnson, was duly and legally appointed dative testamentary executor of said Oliver J. Morgan's succession and also dative testamentary executor of Oliver T. Morgan's succession, and said suit was revived as to him and he was made a party defendant thereto, and was a party thereto when said final decree was rendered; that said Oliver T. Morgan and said Matthew F. Johnson,

81

in their said official capacities, were both parties to said suit 6612; that said Julia Morgan and her representatives and heirs never claimed that said act of sale and donation was valid, and never claimed title to said plantation under said act, and that after its execu-
82 tion neither said Oliver J. Morgan nor said Julia Morgan treated or regarded said act as valid; that said Oliver J. Morgan left his last will and testament, which was duly probated, in and by which he devised to said Julia Morgan the identical property he attempted to convey to her in and by said act of sale and donation. A copy of said will is found in said printed record of said cause 6612, at p. —.

6th. He says it is not true, as stated in said bill of complaint, that said Oliver J. Morgan never became the owner of the rights of the heirs of Narcissa Deeson in the community property aforesaid. On the contrary, he avers that in and by said judicial proceedings for a partition and the sale thereunder, and the adjudication and sheriff's deed, said Oliver J. Morgan became the absolute owner, both at law and in equity, of all said community property, and the Supreme Court of the United States has so declared in said cause 6612. He further avers that upon the death of said Oliver J. Morgan all of said property, including said five plantations, was inven-
83 toried as the property of said Oliver J. Morgan, with the full knowledge of, and without opposition from, said Julia Morgan; that complainant is informed and believes and so charges the truth to be that said Julia Morgan was a party to and gave her consent to said inventories, and thereby the complainants and each of them are estopped from claiming said lands or any part of them as the property of them or any of them.

7th. Further answering, he says that Oliver T. Morgan, the dative testamentary executor of said Oliver J. Morgan and the testamentary executor of said Julia Morgan, in about the year 1868, with the knowledge, connivance, and consent of said Julia Johnson and of said Narcissa K. Johnson, entered into a combination and conspiracy with said Jno. A. Buckner, one F. M. Goodrich, and others to sell said lands, through the forms of law, to defraud the said Wm. Gay and other creditors of said succession of O. J. Morgan, to the benefit and advantage of the said heirs, including the complainants, Narcissa K. and Julia H. Johnson, and in pursuance of the
84 said fraud the said O. T. Morgan, in his official capacities, caused said lands to be sold; and he avers that said Oliver T. Morgan, as executor of his wife, Julia Morgan, in bringing about said sales, had authority to bind and did bind complainants' interests in the estate of said Julia Morgan, and the said complainants ratified the acts of said O. Morgan by their own acts thereafter. He denies that said sale was made on the application of creditors of O. J. Morgan or of Julia Morgan, and said plantations were at said sale bought as follows, to wit: A part of said lands by said Jno. A. Buckner, a part by J. West Montgomery, one of the confederates; a part by F. M. Goodrich, another one of the confederates; all of which will appear by reference to the record in said cause 6612 and the record pertaining to said fraudulent sale, both of which will be

produced on the trial hereof; that by decree of the Supreme Court of the United States in said cause 6612 the said fraudulent sales were, as to this defendant and other creditors of said Oliver J. Morgan, annulled and set aside; nevertheless, as between the parties thereto, they remained of valid and binding force;
85 and the said representatives of said Julia Morgan, including the complainants, are, by reason of the premises aforesaid, estopped from claiming title to said lands as lands specifically, even if before then they had any title thereto, which this defendant denies.

8. He denies that the decree of the Supreme Court of the United States in said cause 6612 reinstated complainants in the position of creditors of Oliver J. Morgan. He denies that at the time proceedings which led to said fraudulent sales were instituted, or when sales were made, that the complainants, or any of them, or said Mollie *or Mollie* Buckner, were in any sense creditors of said succession of Oliver J. Morgan for any sum whatsoever, or that they owned any interest in any of said lands; denies that complainants, Narcissa and Julia H Johnson, are or are to be considered as owners of one-half of said Narcissa Deeson's lands, or any part thereof or interest therein, or as creditors of said Oliver J. Morgan; and as to the allegation that under the laws of Louisiana the vendee
86 who has not paid the price of property purchased by him is not treated as owner thereof, he says that if said allegation applies or refers to the purchase of said lands at said partition sale, he answers, first, that the Supreme Court of the United States in said cause 6612 has already declared that in and by said partition sale the said Oliver J. Morgan became absolute owner of all said property; and, secondly, that the complainants have long ago received of moneys and other effects of the said succession of O. J. Morgan for more than enough to pay said alleged indebtedness three times over (as will be shown hereinafter); and, thirdly, that they have so conducted themselves in reference to said succession (as will be hereinafter shown) as not only to subordinate the alleged claims of the complainants against said succession to the claim of this defendant, but also to make complainants and each of them individually and personally liable to this defendant for the whole amount of his claim in judgment.

9. Further answering, this defendant says that upon the
87 death of said Oliver J. Morgan the said Julia Morgan, and upon her death the said Narcissa K. Johnson and Julia H. Johnson, by connivance and in collusion with the said Jno. A. Buckner and others, representing the alleged Kelham interest, and with the connivance and the collusion of said Oliver T. Morgan, testamentary executor of said Oliver J. Morgan and executor of Julia Morgan, and after his death with the connivance and collusion of said Matthew F. Johnson, dative testamentary executor of O. J. Morgan and of O. T. Morgan, entered into and continued in the possession, management, and control of and exercising acts of ownership on and over said five plantations and appropriating to themselves all the rents, incomes, and profits of and from said five plan-

tations, and paid no debts of the said succession; that said possession continued until within a few weeks when this court, in said cause 6612, appointed a receiver and placed said plantations in his possession; that from the time said possession commenced up
88 to the time the bill of complaint in cause 6612 was filed Julia Morgan and the complainants, Narcissa K. and Julia H. Johnson and said Buckner and others, representing said Kelham interest, received and appropriated to themselves and their own use not less than $220,000 of the assets of the succession of said O. J. Morgan, as will appear by reference to the record in said suit 6612, of which said Julia Morgan and the complainants in this cause received not less than $110,000 and said Buckner and those representing said Kelham interest received and appropriated the rest; that upon information and belief he charges that since the filing of the bill of complaint in said cause the same parties have received of said assets of said succession not less than $250,000, of which complainants have received and appropriated not less than $125,000.

That besides the said effects received the complainants are liable to said succession for rents of the Albion, Welton, Melbourne, and other plantations occupied and cultivated by them and those under whom they claim for twelve years before the filing of said bill
89 of complaint in cause 6612 and for twelve years since then, making a term or period of 24 years, and that said rents were well worth the sum of not less than $10,000.00 a year.

And this defendant submits to the court that until these moneys and effects shall be accounted for and paid into the hands of the receiver in said cause 6612, or into the registry of this court, the complainants have no standing in a court of equity to enforce said pretended claim, in whole or in part, against said succession of O. J. Morgan, or to be admitted to an equal standing with this defendant. And he further says that in and by said receipts and by said liability for rents said pretended claim, if it ever existed after the death of said O. J. Morgan, has been more than compensated and paid and set off.

10th. Further answering, he says that the said Julia Morgan, under and through whom complainants claim, by her acts and exercise of ownership and taking and appropriating as her own the incomes and profits of the lands and other profit of the succession of O. J.
90 Morgan, and other acts shown in the record of said cause 6612, accepted, purely and simply and without benefit of inventory, the said succession of said Oliver J. Morgan, and thereby became personally liable for the debts of said O. J. Morgan due this defendant, and the complainants, as her heirs-at-law, cannot be permitted to assert said pretended claim against said plantations to the prejudice of this defendant; and said complainants, since the death of said Julia Morgan, have themselves acted as owners of said plantations, possessing, managing, and controlling the same, and cannot be permitted for such reasons to assert said pretended claim against said plantations to the prejudice of said debt to this defendant.

11th. Further answering, this defendant says that the interests in

said bill of complaint of complainants set forth and claimed by them as heirs of said Julia Deeson and Julia Morgan were subject-matters of said suit 6612, and that the succession of said Julia Morgan, through and under whom complainants claim, was a party to
91 said suit and duly and legally repre*re*sented therein, and the defendant herein was a party to said suit, and that the Supreme Court of the United States in its final judgment and decree in said cause adjudged and decreed that the said succession of Julia Morgan and her representatives were not the owners of any of said five plantations or any part thereof and could not claim the same, but that all of said plantations were the property of the succession of Oliver J. Morgan, and decreed the same to be sold as the property of the succession of said Oliver J. Morgan to satisfy the debt due this defendant and other debts due by said succession; and this defendant answers and pleads that as to the claim of complainants to any part of said lands as lands the said final decree of the said Supreme Court has the force and effect of the thing adjudged, and this defendant pleads the same accordingly; and as to the money demand of the complainants he says that said final decree was full and conclusive in favor of this defendant and against the interests claimed by complainants, and has the force and effect of the
92 thing adjudged as between said parties as to the money demand and also as to all the other matters and things of the bill of complaint of complainant-, except as to the question whether the succession of Julia Morgan, deceased, is entitled to any portion and what portion of the proceeds arising from the sale of said lands under said final decree, by virtue of said act of sale and donation of 1858, so far as said act was a sale and not a donation, and he pleads the same accordingly.

12th. He denies that said act was a sale. He denies that the complainants are entitled to any portion of the proceeds of the sale of said lands when sold under the said final decree.

And, further answering, this defendant says that as to said money demand of complainants, the said succession of said Julia Morgan and the complainants who claim under said succession, were parties to said fraudulent proceedings and sales of 1868 and 1869, annulled as aforesaid by said final decree of said Supreme Court; and
93 that by the efforts of the said Wm. Gay and this defendant, his administrator, said frauds were unearthed and exposed, and said fraudulent sales set aside, and that the complainants cannot now be permitted to enjoy and share alike with this defendant the fruits of his victory.

13th. Further answering, he says that said money demand of the complainants is barred by the prescription of three, five, and ten years, and by reason thereof the complainants cannot recover, and this defendant, to said money demand for $67,495.70 and interest, pleads the prescriptions of three, five, and ten years.

Now, having fully answered, he prays to be hence dismissed with

all his costs and charges most wrongfully in this behalf expended, and for all and general relief, and as, etc.

(Signed) JULIUS ARONI AND
W. F. & D. C. MELLEN,
Solicitors.
STEVENSON WATERS,
Adm'r Estate of Wm. Gay, Dec'd.
By W. F. MELLEN, *Solicitor.*

STATE OF LOUISIANA, *Parish of Orleans:*

94 Before me, John G. Eustis, a notary public for said parish and State of Lousiana, personally came Julius Aroni, and, being by me duly sworn, says that he is attorney and solicitor of the defendant, Stevenson Waters, administrator, etc.; that the defendant is absent from this State, and that all the matters and things of the foregoing answer stated as upon knowledge are true, those stated as upon information he believes to be true, and all others are true to the best of his knowledge, remembrance, and belief.

(Signed) JULIUS ARONI.

Sworn to and subscribed before me this 17th day of January, A. D. 1885.

[SEAL.] (Signed) J. G. EUSTIS,
Not. Pub.

Agreement to Consolidate Suits. Filed 5th March, 1885.

United States Circuit Court, Eastern District of Louisiana.

JNO. A. BUCKNER *et al.*
v.
S. WATERS, Adm'r of Wm. Gay, Deceased. } No. 10633.

95 NARCISSA KEENE, Wife of Matthew F. Johnson, *et al.*
v.
S. WATERS, Adm'r of Wm. Gay, Deceased. } No. 10634.

It is agreed that these two causes be consolidated and tried together, and it is agreed that the consolidation shall have the same effect as if the complainants had amended their respective bills, and that the complainants in suit No. 10633 had made the complainants in suit No. 10634 parties defendants to their bill, and *vice versa*, and that Mathew F. Johnson, in his capacity of dative testamentary executor of Oliver J. Morgan, appears in these suits and becomes a party thereto, and that the bill of the complainants in suit No. 10633 shall be treated as their answer to the bill filed in suit No. 10634, and the bill of said complainants in said suit No.

10634 shall be treated as their answer to the bill filed in suit No. 10633.

March 4, 1885.

(Signed) WM. F. & D. C. MELLEN,
Sol's for S. Waters, Adm'r.
T. J. SEMMES & PAYNE,
Sol's for Compl'ts.

96 *Appearance and Answer of Mat. F. Johnson, Executor of O. J. Morgan. Filed 23rd April, 1885.*

United States Circuit Court, Eastern District of Louisiana.

JOHN A. BUCKNER *et al. v.* STEVENSON WATERS, Adm'r of Wm. Gay, Deceased; NARCISSA KEENE, Wife of Mathew F. Johnson *et al. v.* STEVENSON WATERS, Adm'r of William Gay, Deceased. } Nos. 10633, 10634.

Mathew F. Johnson, in his capacity as dative testamentary executor of Oliver J. Morgan, appears in these suits and admits the facts set forth in the respective bills of complaint filed in these consolidated causes.

(Signed) MATTHEW F. JOHNSON.

Stipulation. Filed 8th July, 1885.

United States Circuit Court, Eastern District of Louisiana. In Equity.

JNO. A. BUCKNER *et al. v.* STEVENSON WATERS, Adm'r of the Estate of Wm. Gay; and NARCISSE KEENE, Wife, etc., *et als. v.* SAME. } No. 10633 and No. 10634 Consolidated.

Stipulation.

97 The parties, by their solicitors, for the purpose of avoiding delay and expense, and of bringing these causes to a speedy trial, stipulate as follows:

1st. The answers filed in these causes, before consolidation, shall be taken and considered as the answers to the consolidated causes, and apply to new parties introduced since they were filed as well as to those then parties.

2nd. The causes shall be considered at issue as if replications had been filed, and no further replications than the provisions of this agreement shall be necessary.

3rd. A copy of the record in cause 6612, referred to in the pleadings in these causes, and numbered 297 on the docket of the Supreme Court of the United States, as the same was printed for use in the Supreme Court of the United States, shall be filed in evidence. All documents copied therein shall be taken and considered as if they were separately authenticated by the proper officer and without other evidence of their authenticity than the fact that they are found in said printed record.

98 It is not intended by this agreement to waive any legal objection to the introduction in evidence of any document or depositions printed in said record which might or could be made to the original depositions if produced and offered, objections as to form being waived.

4th. The judgment and decree of the Supreme Court of the United States in said cause 6612 (297 of that Court), as the same is printed in Vol. III of the printed reports, may be used in evidence without further proof or the production of a certified copy thereof; but this agreement in this respect is intended to waive form only and not any objection to the admissibility in evidence of said decree on other grounds, nor to its effect when introduced in evidence.

Signed in triplicate this 7th day of July, A. D. 1885.

(Signed) W. F. & D. C. MELLEN,
Sol'rs for S. Waters, Adm'r.

(Signed) T. J. SEMMES & PAYNE,
Sol'rs for Compl'ts.

99 *Stipulation. Filed 13th October*, 1885.

United States Circuit Court, Eastern District of Louisiana.

JNO A. BUCKNER *v.* STEVENSON WATERS, Adm'r; NARCISSA KEENE *et al. v.* STEVENSON WATERS, Adm'r. } Nos. 10633 and 10634 Consolidated.

It is agreed that the depositions filed in these cases be opened for examination by either party.

Octo. 13, 1885.

(Signed) T. J. SEMMES & PAYNE,
For Complainants.

(Signed) W. F. & D. C. MELLEN,
Solicitors for Respondent.

Certificate of Clerk of East Carroll Parish. Filed 31st May, 1886.

STATE OF LOUISIANA, *Parish of East Carroll:*

United States Circuit Court, Eastern District of Louisiana.

JNO. A. BUCKNER *et al. v.* S. WATERS, Adm'r; and NARCISSE KEENE, Wife of Mat. F. Johnson, *v.* SAME. } Nos. 10633 and 10634.

I, Wm. Rous, clerk of the eighth judicial district court in and for the parish of East Carroll, in said State, do hereby certify that
100 I am the custodian of the probate and succession records and files of said parish of East Carrol, and that after having made a thorough and careful examination thereof, and especially of the records and papers pertaining to the succession of Oliver J. Morgan and Julia Morgan, deceased, I do hereby certify that Oliver T. Morgan, executor of the succession of Oliver J. Morgan, never filed or rendered any account of his administration of said succes-

sion, except one which was filed on the 8th day of February, A. D. 1870, purporting to be a final account.

And I do further certify that Oliver T. Morgan, as executor of Julia Morgan, deceased, never filed or rendered any account of his administration of said succession.

And I do further certify that Matt. F. Johnson, dative testamentary executor of the succession of Oliver J. Morgan, never rendered or filed any account of his administration of said succession; and further, that the said Matt. F. Johnson never filed any bond
101 as dative testamentary executor of the said succession of Oliver J. Morgan, deceased.

In testimony whereof I have hereunto signed my name officially and affixed the seal of my said office, at Lake Providence, in said parish and State, this 23rd day of January, A. D. 1886.

[SEAL.] (Signed) WM. ROUS,
Clerk 8th District Court.

Stipulation. Filed 31st May, 1886.

Circuit Court of the United States, Eastern District of Louisiana.
In Equity.

JNO. A. BUCKNER *et al. v.* S. WATERS, Adm'r; NARCISSA K. JOHNSON *v.* SAME. } 10633 and 10634 Consolidated.

It is admitted that the following-named persons, whose depositions appear in the printed record of cause No. 6612, as printed for the Supreme Court of the United States, do not reside in the parish of Orleans:

Edward Sparrow (now dead),
J. W. Montgomery,
John Lynch,
Wm. D. Davis,
102 J. W. Drayton or Drayhon,
T. Walters Mann,
D. McCandless,
J. H. D. Boumor,
W. G. Wyly,
A. W. Roberts,
N. D. Ingram,
T. Le May,
Cyrus A. Hedrick,
Jas. S. Milliken,
Henry Goodrich,
T. B. Rhodes,
Claude M. Telford,
J. W. Erwin,
Jno. A. Buckner,
E. M. Devine,
E. J. Delony, and
W. A. Johnson—does reside in the parish of Orleans.

Feb'y 9, '86.
(Signed) THOS. J. SEMMES,
Sol'r for Compl'ts.
W. F. & D. C. MELLEN,
Solicitors for Def't.

Hearing and Continuance.

Extract from the Minutes. April Term, 1886.

NEW ORLEANS, MONDAY, *June* 7, 1886.

Court met pursuant to adjournment.
Present: Hon. Don A. Pardee, circuit judge.
" Hon. Aleck Boarman, district judge.

JOHN A. BUCKNER *et al. v.* S. WATERS, Adm'r; NARCISSA KEENE, Wife of M. F. Johnson, *v.* S. WATERS, Adm'r, etc. } 10633 & 10634.

These two causes, consolidated by a previous order of the
103 court, came on to be heard before their Honors Don A. Pardee, circuit judge, and Aleck Boarman, district judge, upon the bills of complaint, the answers, the stipulations, the proceedings and proofs; and, after being partially argued by counsel for the respective parties, were continued until to-morrow at 11 a. m.

Note of Evidence. Filed 7th June, 1886.

United States Circuit Court, Eastern District of Louisiana.

JNO. A. BUCKNER *et al. v.* STEVENSON WATERS, Adm'r of Gay; NARCISSA KEENE, Wife, *et al.*, *v.* SAME. } Nos. 10633, 10634 Consolidated.

Note of evidence.

The complainants offer in evidence—

1. The permission of the court given to complainants to file these bills in the alternative. Said permission is filed before the master in suit No. 6612.

2. Act of donation and sale, dated 9 March, 1858, and printed in printed transcript at p. 55 to p. 61.

104 3. Partition proceedings in the suit of Oliver J. Morgan *v.* Julia Morgan *et als.*, No. 2959, parish of Carroll (10th district court), as printed at pages 31, 32, 33, 34, 35, 36, 37 of said transcript, including sale and sheriff's return.

4. Depositions of Kennedy and others, with exhibits, filed in this court Nov'r 25, 1885,

5. Depositions Jno. A. Buckner, with exhibits, filed 25 Nov'r, 1885.

6. Depositions of Mat. F. Johnson and Narcissa Keene and George G. Johnson and his wife, [and] Julia H. Morgan, filed August 17, 1885.

And this was all the evidence offered by the complainants.

The defendant, S. Waters, administrator of Wm. Gay, thereupon offered and read in evidence—

1st. The stipulation between the parties, by their solicitors, filed July 8th, 1885.

2nd. The stipulation between the parties, by their solicitors, filed May 31st, 1885.

3rd. Certificate of Wm. Rous, clerk of the 8th district court, parish of East Carroll, filed May 31st, 1886.

105 4th. The whole record in cause 6612, referred to in the pleadings in these causes and numbered 297 on the docket of the Supreme Court of the United States, as the same was printed for use in the Supreme Court of the United States; all the documents therein, all the pleadings and proceedings, and all the depositions of all the witnesses therein, the printed copy whereof was filed herein June 7th, 1886.

5th. The judgment and decree of the Supreme Court of the United States in said cause 6612 (No. 297 of that Court), as printed in the report of said case in Vol. III of the United States Supreme Court Reports, therein styled Johnson *v.* Waters.

And this was all the evidence offered by respondent Waters.

And it was thereupon stipulated by the solicitors of the complainants and respondent that in case of appeal by any party to the Supreme Court the printed copy of the record in said cause 6612, as printed for the Supreme Court, shall go up as an original in lieu of being copied.

106 (Signed) THOS. J. SEMMES,
For Plaintiffs.

(Signed) W. F. & D. C. MELLEN,
Solicitors for Respondent Waters.

The Permission of the Court Given to Complainants to File These Bills in the Alternative Offered by the Complainants.

Circuit Court of the United States, Eastern District of Louisiana.

STEVENSON WATERS, Adm'r of the Estate of William Gay, Deceased,
v.
MATTHEW F. JOHNSON *et al.*
} No. 6612.

To the honorable the circuit court of *of* the United States for the eastern district of Louisiana:

The petition of Jno. A. Buckner, for himself and as tutor of his minor child, Ethaline, and of Narcissa K. Keene, wife of Mathew F. Johnson, and of Julia H. Morgan, wife of George G. Johnson, herein aided and assisted by their said husbands, with respect represents that this cause is referred to the master to receive proof

107 of claims against Oliver J. Morgan, deceased; that they are either creditors of said Morgan or are entitled to participate in the proceeds of the real estate, if sold, as having an equitable interest in the same or they are entitled as owners to said real estate or a part thereof; that the complications of the case and the views expressed by the Supreme Court of the United States render it necessary for them to file cross-bills or original bills or bills in the nature of supplemental and cross-bills to assert their rights and bring the same properly before the court, and therefore they ask permission of the court to assert their rights, whatever they may be,

either as creditors or as owners, by filing their claims with the master, or such bills as they may be advised, or both together, without prejudice to either or any right they may have.

(Signed) T. J. SEMMES & PAYNE,
Sol's for Pet'rs.

Order.

108 The permission prayed for in the foregoing petition is granted and petitioners are allowed to assert their claims as creditors or as owners or as in equity entitled to participate in the proceeds of sale of real estate, whatever their rights may be, and to assert them, either before the master or independently, by such bills, original or supplemental, or cross-bills as they may be advised, or both before the master and by bill, without prejudice to any right they may have.

July 7th, 1884.

(Signed) DON A. PARDEE, *Judge.*

Act of donation and sale, dated 9th March, 1858, and printed in printed transcript at pp. 55 to 61, offered by complainants.

Partition proceedings in the suit of Oliver J. Morgan *v.* Julia Morgan *et als.*, No. 2959, parish of Carroll (10th district court), as printed at pages 31, 32, 33, 34, 35, [and] 37 of said transcript, including sale and sheriff's return, offered by complainants.

109 Depositions taken by Kennedy, with exhibits filed in this court November 25, 1885, offered by complainants.

United States Circuit Court, Eastern District of Louisiana. In Equity.

JNO. A. BUCKNER *et al. v.* STEVENSON WATERS, Adm'r of Estate of Wm. Gay; NARCISSA KEENE, Wife, etc., *v.* SAME. } Nos. 10633 & 10634.

Interrogatories propounded by complainants to James Beard, T. B. Rhodes, W. B. Keene, and Charles McAllister, witnesses for complainants, residing in East Carroll parish, Louisiana, whose answers to said interrogatories and to the cross-interrogatories to be filed are to be read as evidence in the above-entitled causes.

1. State your age and occupation and how long you have been engaged therein.

2. Do you reside in the neighborhood of "Melbourne" plantation, in East Carroll parish, now occupied by Jno. A. Buckner; if yea, how long have you so resided?

110 3. In what condition was said plantation during the war and at its termination? What was its condition in 1867?

4. During what years was said plantation overflowed, and what was the effect of said overflows?

5. In what condition is said plantation now?

6. What is the fair rent of land after an overflow?

7. What is the general rent of land like Melbourne when leased in a large body?

8. What would you consider a fair rent for Melbourne each year since 1867?

9. Are you also acquainted with Albion and Wilton plantations, and also Morgana and Westlake? If yea, state whether or not their condition was impaired during the war, and what was their condition at the end of the war.

What was their condition in 1867 and 1868? If said plantations have been overflowed, please state in what years and the effect of said overflows thereon.

111 10. Please state what would be a fair rental for Albion, Wilton, Westlake, and Morgana plantations (each plantation separate) for each year separately from 1867 to 1884.

11. State any other fact relative to said plantations (Melbourne included) which may enable us to determine to what extent their possessors, from 1867 to 1884, have derived (if any) pecuniary profit or advantage therefrom, after deducting expenses, losses, reparations, repairs, reinstating of fences, ditches, buildings, and cost of superintendence, etc.

(Signed) T. J. SEMMES & PAYNE,
Solicitors for Complainants.

It is agreed that a commission issued directed to J. M. Kennedy, Lake Providence, East Carroll parish, La., to be named special commissioner in the commission to be issued by the clerk, or to any judge, notary public, or other person authorized to administer oaths in said parish, to take the depositions of the witnesses aforesaid in answer to the foregoing direct interrogatories and the following cross-interrogatories, motion and affidavit waived, all objections to the relevancy of the testimony being reserved.

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July 9th, 1885.

(Signed) W. F. & D. C. MELLEN,
Solicitors for S. Waters, Adm'r.

Cross-Interrogatories.

X first. Did you know Oliver J. Morgan in his lifetime? When did he die?

X second. During the lifetime of Oliver J. Morgan and up to his death, who had the possession and control of the Albion, Wilton, Westlake, Morgana, and Melbourne plantations? Who took possession of these plantations after the death of Oliver J. Morgan? Please state separately for each of the plantations.

X third. Did Oliver T. Morgan, executor of Oliver J. Morgan, ever take possession and control of said plantations or any of them; if yea, which of them? When did he take possession of them? How long did he retain possession?

X fourth. On the death of Oliver J. Morgan, who took possession of the mules, horses, mares, colts, yoke-oxen, horned cattle, sheep, hogs, wagons, farming utensils, and corn on said plantations? Who took possession of the household and kitchen furniture, and silver-ware on said plantation?

113

X fifth. State separately for each one of said plantations how many bales of cotton and how many barrels of corn were grown thereon in each of the years from 1860 to 1884, both inclusive; also the value of cotton and the value of corn in each one of said years.

X sixth. In what years, from 1860 to 1884, inclusive, were any of said plantations leased, in whole or in part? State which of them were leased, what parts of each one were leased, by whom they were leased, to whom they were leased, and what was paid for the leases. State in detail for each year.

X seventh. State whether or not H. B. Tebbits —— Montague, [or] Samuel L. Chambliss ever rented any of said plantations, and when and for how long, what rental they paid, and to whom they paid it?

X eighth. Do you know whether any of said plantations were ever cultivated during any of said years on shares? If yea,
114 which of them, in what years, by what ostensible owner or owners was such cultivation carried on? How much income did said ostensible owners receive from such contracts?

X ninth. Had said plantations been well managed and thoroughly cultivated in 1865, 1866, and year by year to 1884, inclusive, by those in possession or claiming to be in possession by themselves, their agents, or employés, what amount of cotton and what amount of corn (and the value of each) would or could have been produced on each one of said plantations in each of said years? Answer separately for each place.

X tenth. Had said plantations been kept in good repair as to buildings, fences, ditches, and all other respects, what would have been a fair rental for each one of them in the years from 1865 to 1884, inclusive? Answer separately for each year and each plantation.

X eleventh. State any facts within your knowledge tending
115 to show the rents, incomes, and revenues received by the heirs of Oliver J. Morgan and the heirs of Julia Morgan from said plantations and each of them prior to the year 1885; and also any facts within your knowledge tending to show what property or effects of the succession of Oliver J. Morgan passed into the hands of said heirs and the value thereof.

(Signed) W. F. & D. C. MELLEN,
Solicitors for Waters, Adm'r.

United States Circuit Court, Eastern District of Louisiana. In Equity.

JOHN A. BUCKNER *et al. v.* STEVENSON WATERS, Adm'r of the Estate of Wm. Gay; and NARCISSA KEENE, Wife, etc., *v.* SAME. } Nos. 10633 and 10634 Consolidated.

I, Joseph M. Kennedy, herein acting as special commissioner under and by virtue of the annexed commission issued in the above styled and numbered causes out of the hon. the circuit court of the United States for the fifth circuit and the eastern district of Louisiana,
116 dated the 11th day of July, A. D. 1885, and to me directed,

do hereby certify that on the 10th day of August, A. D. 1885, at my office, in the town of Lake Providence, parish of East Carroll, and State of Louisiana, I did cause to personally come and appear before me Charles McAllister, one of the witnesses named in said commission, who, being by me first duly cautioned and sworn to tell the truth, the whole truth, and nothing but the truth in answer to the direct and cross interrogatories annexed to said commission and to him propounded, did answer, depose, and say as follows:

Answers to Direct Interrogatories.

Answer to 1st int. I am sixty-eight years old; am a planter, and have been engaged in that occupation ever since my majority.

Answer to 2nd int. Yes; have resided there since the year 1859.

Answer to 3rd int. Melbourne was abandoned in the spring of 1862. All the improvements thereon were destroyed in June, 1863, and at the close of the war the place was a wreck, in which con-
117 dition it was in 1867.

Answer to 4th int. It was overflowed during the years 1866, 1867, 1871, 1874, 1876, 1881, 1882, and 1883. The effects of these overflows were disastrous to the place; they drove the laborers wholly or partially away from the plantation, filled up the ditches, and materially injured the houses.

Answer to 5th int. The place is now in fine condition, having been well improved. It is in as good condition as any plantation in the parish.

Answer to 6th int. The rent of land after an overflow depends in a great measure on the extent and duration of the overflow. Some years it is nothing, but generally about one-half—say ($3.00) three dollars per acre.

Answer to int. 7th. From four to five dollars per acre.

Answer to int. 8th. For 1867, nothing, being overflowed; 1868, nothing, no improvements having yet been put upon the place since the war; 1869, one thousand dollars, some improvements having been put upon the place since the last year, rendering it partially cultivatable; 1870, the same as for 1869; 1871, noth-
118 ing, being badly overflowed; 1872, one thousand dollars; 1873, same as year previous; 1874, nothing—again badly overflowed; 1875, fifteen hundred dollars; 1876, five hundred dollars—again overflowed; 1877, fifteen hundred dollars; 1878, two thousand dollars; 1879, twenty-five hundred dollars; 1880, same as in previous year; in 1881 and 1882, nothing—having been very badly overflowed during both years; 1883, one thousand dollars—partially overflowed; and in 1884, three thousand dollars.

Answer to int. 9th. I am well acquainted with Albion, Wilton, Morgana, and Westland plantations, having once managed Albion and Wilton plantations, and have resided on or in the immediate neighborhood of these places for the last twenty-six years. Albion and Westland were completely wrecked during the war, all the improvements having been destroyed; Morgana was materially injured, the improvements having been more or less destroyed or impaired.

On Wilton the gin was burned and the other improvements
119 were more or less injured, the large and valuable stable *and* being burned, and from all these places the stock, farming utensils, and everything that goes to make up a "plant" for a cotton plantation was removed and the places abandoned, and this was their condition at the close of the war.

They were in about the same condition in 1867 and 1868 as that above stated, except that on Wilton some few hundred acres were in cultivation during those two years.

Westland and Morgana are "back" places, or places lying back of plantations fronting on the Mississippi river, and have been more or less overflowed each year since 1862, and it has not been possible to keep labor to any extent on them. They have grown up in bushes and trees, so that there has not been as much as one hundred acres in cultivation on both places together during any year since the war.

Albion was overflowed during the same years as Melbourne, as mentioned in my answer to the 4th interrogatory. The effect of these overflows was to prevent the cultivation of the place,
120 except to a very limited extent, and to cause the open land to grow up in trees and bushes.

Wilton was partially overflowed in 1871, and 1881 and 1882 it was overflowed to a large extent—perhaps to ¼ in 1881, and to ½ in 1882; but with the exception of preventing the making of a crop on the overflowed portion, it was not injured by these overflows.

Answer to int. 10th. For Albion for the years 1867 and 1868, nothing; 1869, about $200.00; 1870, $250.00; 1871, nothing—being overflowed; 1872, $250.00; 1873, $250.00; 1874, nothing—overflowed; 1875, about $300.00; 1876, $100.00—being partly overflowed; 1877, $300.00; 1878, same as year previous; 1879, $500.00; 1880, same as year previous; 1881, $150.00—being mostly overflowed; 1882, nothing—being completely overflowed; 1883, $150.00—being mostly overflowed; 1884, $700.00.

For Wilton for the years 1867 and 1868, about $350.00 per annum; 1869 and 1870, about $400.00 per annum; 1871, $350.00—being somewhat overflowed; 1872, $500.00; 1873, $600.00; 1874, $800.00; 1875, '76, '77, '78, '79, '80, at $800.00 per annum; 1881 and
121 1882, $500.00—being partly overflowed; 1883 and 1884, $800.00.

For Westland, nothing during any of these years, having so grown up in trees, bushes, etc., as to be closer and more difficult to open than the virgin forrest would be.

For Morgana, from 1867 to 1878, inclusive, being grown up in trees and bushes and abandoned, worth nothing; from 1878 to 1884, inclusive, about $50.00 per annum, except for 1882, when it was overflowed and worth nothing.

Answer to int. 11th. On account of the dilapidated condition in which Melbourne plantation was left at the close of the war and the overflows from which it has suffered since, I do not think that the possessors thereof have derived any pecuniary benefit or advantage at all therefrom, as the cost of putting the place in condi-

tion to be cultivated and keeping it in repair and other necessary expenses, such as are enumerated in the question, fully equalled, if they did not exceed, the revenues derived therefrom. If
122 this place had been left in the condition it was in at the close of the war, and had not have been improved, I do not think it could have been sold at any time since that date (close of the war) for ($5.00) five dollars per acre.

As to Albion, for the same reasons I do not think any pecuniary advantage or profit has resulted to its possessors, and it would not have sold for any more than Melbourne.

And so as to Morgana and Westland.

As to Wilton, from the close of the war until the year 1879 I think that after deducting the necessary expenses of cultivating the place, such as are enumerated in the question, nothing would remain to the possessors; from 1879 to 1884, both inclusive, I think there remained to the possessor, after making the aforesaid deductions, a nett revenue of $500.00 per annum.

My answer to interrogatory 10th, wherein I stated what I thought would be a fair rental for each of these places, was based
123 upon the hypothesis that the expenses of putting the places in repair and keeping them so would be paid by the lessor; but if such expenses should be paid out of the rents, then nothing would remain, as they would have been more than the amounts named as rents, except in the case of Wilton, as just above explained.

I do not think that Wilton plantation, at any time since the war, would have brought more than ($12,000.00) twelve thousand dollars at public sale.

Answers to Cross-Interrogatories.

Answer to 1st X int. Yes; he died in the spring of 1860.

Answer to 2nd. During the lifetime of Oliver J. Morgan, and up to the time of his death, he himself had the possession and control of Wilton, Albion, and Morgana; Oliver T. Morgan had Westland during this time, having opened it about the year 1858; Melbourne was in the possession and control of Oliver Kellam until his
124 death, in 1855, when it passed into the hands of his widow, Mrs. M. M. Kellam, where it remained until after the death of Oliver J. Morgan.

After the death of Judge Oliver J. Morgan, Westland remained in the possession of Oliver T. Morgan, as it had been before, and Wilton, Albion, and Morgana went into his possession likewise as the executor of the succession of Oliver J. Morgan, and Melbourne remained in the possession of Mrs. Kellam, and afterwards of John A. Buckner, until the beginning of the present year.

Answer to X int. 3. As stated in my answer to X interrogatory 2nd, Oliver T. Morgan, as executor of the succession of Oliver J. Morgan, went into possession, on the death of Oliver J., of Wilton, Albion, and Morgana; but I do not know how long he retained such possession.

Ans. to X int. 4. As Oliver T. Morgan was the executor of Judge O. J. Morgan, and lived in the dwelling-house on Wilton, I sup-

pose he took possession of all the personal property named
125 in the question on the three places, Wilton, Albion, & Morgana; the other two places were in other hands, as stated in my answer to X int. 2nd.

Ans. to X int. 5th. It is impossible for me to say; I do not know how much cotton and corn was raised, and it is impossible for me to remember the exact value of cotton or corn for each of the years seperately inquired of, but the average value thereof during the period covered by the question—say from 1860 to 1884—was about 8½ cents to 9½ cents per pound for cotton and 50 to 60 cents a bushel for corn.

Ans. to X int. 6th. I have no knowledge whatever of any of these places ever having been leased, in whole or in part, during any of the years covered by the question—say from 1860 to 1884. I have heard that J. Stein had Wilton leased during 1883 and 1884, but I know nothing of it of my own knowledge.

Ans. to X int. 7th. I do not know; as stated above, I have no knowledge whatever upon the subject.

Ans. to X int. 8th. I do not know; I was not acquainted with the manner in which, or conditions upon which, the places were
126 cultivated during these years.

Ans. to X int. 9th. If the plantations had have remained in the same condition they were in at the beginning of the war and have been well cultivated and managed, Wilton would have produced, on an average, during these years, cultivated with free labor, about 300 bales of cotton and 1,000 bushels of corn; Melbourne, under the same conditions, about 400 bales cotton and 1,000 bushels corn; Albion, about 400 bales cotton and 1,000 bushels corn; Morgana, about 300 bales cotton and 1,000 bushels corn; Westland, about 300 bales cotton and 1,000 bushels corn, and the value of this cotton and corn would be about what I have stated in my answer to X int. 5th; but, on account of the dilapidated and wrecked condition in which the places were left by the war and the repeated overflows, all of which has been detailed in the foregoing answers, it has been impossible to thoroughly cultivate any of them since the war, and therefore I am unable to answer the question from any actual knowledge.

Answer to X int. 10th. If the plantations had remained in
127 the same repair that they were in at the beginning of the war, a fair average rental for Melbourne during the time named, under the altered conditions of labor, would have been about $2,500 per annum; for Wilton, about the same; for Albion, about the same; for Morgana, about $2,000; for Westland, about $1,500.00.

But, as before stated, after the war it was impossible to thoroughly cultivate plantations, and a fair rental for them in their actual condition has been stated by me in my answer to direct interrogatory 10th.

Ans. to X int. 11th. All the knowledge I have in regard to the matters inquired of in this interrogatory I have already stated in my previous answers, and I have nothing further to add.

CHARLES McALISTER.

Sworn to and signed before me this 10th day of August, A. D. 1885.

J M. KENNEDY,
Special Commissioner.

And I further certify that the said answers of said witness were by me then and there reduced to writing and signed and subscribed by him in my presence.

Given under my hand this the 10th day of August, A. D. 1885.

128 J. M. KENNEDY,
Sp-c. Com.

Answer of James Beard.

And I further certify that at the same place, on the 11th day of August, A. D. 1885, I caused to appear before me James Beard, another of the witnesses named in said commission, who, being by me first cautained and duly sworn to tell the truth, the whole truth, and nothing but the truth in answer to the direct and cross interrogatories annexed to said commission and to him prepounded, did answer, depose and say as follows:

To int. 1st. I am forty-three years old; am assessor of the parish of East Carroll, and have been such for four years, prior to which time I was a planter.

To int. 2d. At present I reside in the town of Providence, in this parish, but did reside in the immediate neighborhood of Melbourne plantation from the year 1866 continually until the year 1881.

To int. 3d. At the beginning of the war the plantation was in fine condition and well improved, but during the war the buildings and fences were burned and otherwise destroyed and
129 all the personal property taken off, and at the close of the war the place was left in a very dilapidated and wrecked condition, with no improvements, and grown up to a very great extent in bushes and undergrowth. It remained in this condition until in 1867, when a very small portion was cultivated. During that year I hunted deer on the place very often, and it was a thicket all over, with the exception of a small portion on the front, which was cultivated that year, as I have said.

To int. 4th. It was overflowed it 1867, '71, '74, '81, '82, & '83, and to a limited extent by "back" water in 1884. My recollection is that it was overflowed also in 1876, but of this I am not positive. The effect of these overflows were very damaging to the plantation; they filled up the ditches, injured the houses, and caused the labor to leave, and thereby causing the place to grow up in bushes and small trees to a large extent. The place was so much injured by overflows that any attempt to raise a crop thereon after the water had gone off resulted in a loss.

To int. 5th. The plantation, at this time, is in a very good
130 condition indeed, being well ditched and well improved in buildings and other betterments usual on a cotton plantation, such as stables, steam-gins, tenant-houses, barnes, etc., etc.

To int. 6th. This depends on the extent and duration of the overflow. If the water goes off early in the spring, about one-half ($\frac{1}{2}$) the usual rent is demanded; but if it remains up later, no rent is asked, but the lands are usually given to the tenants rent free in order to retain them on the place for the next year, and to prevent the place from growing up in bushes by being cultivated.

To int. 7. The general rent of land like Melbourne, where it is leased in a large body or as a whole, is from two and $\frac{50}{100}$ to three dollars ($2.50—$3.00) per acre for the open land, the woodland not being considered in fixing the rent.

To int. 8th. For 1867, nothing, by reason of overflow and dilapidated condition of place, as explained above; for 1868, nothing, as place was in no better condition than the year *the year* previous; for 1869, about $500.00; for 1870, about $1,500.00; for 1871, nothing, on account of overflow; for 1872, $1,000.00; for 1873, $2,000.00;
131 for 1874, nothing, on account of overflow; for 1875, $1,500.00; for 1876, cannot say as I do not recollect whether it was overflowed; for 1877, $1,500.00; for 1878, $2,500.00; for 1879, $3,000.00; for 1880, $3,000.00; for 1881 and 1882, nothing for either year, on account of overflows; for 1883, about $1,000—being partly overflowed; and for 1884, $2,500.00.

To int. 9th. I am well acquainted with all the plantations named, and have been for twenty-five years or more, having lived in the immediate neighborhood all my life, until within the last four years.

All the houses, buildings, and improvements of every kind on Albion and Westland were destroyed, the places were completely wrecked, and were abandoned during the war, and at the close thereof they had grown up in cane, briers, and trees, so that they were probably in a worse condition than if they had never been cleared at all, especially as regards Westland, which is a dense thicket.

Morgana was materially impaired during the war. Although the buildings and improvements were not destroyed, they were very much injured, and the place grew up very largely in trees
132 and undergrowth, and this was its condition at the close of the war.

On Wilton the barns, gin-houses, and all the fencing were destroyed; all the personal property was taken off, and the place much injured and dilapidated, and at the close of the war the place was in a very bad and dilapidated condition.

In 1867 and 1868 the condition of all these places was no better than at the close of the war, except that on Wilton some little land was in cultivation in 1867 and a very little more in 1868.

Westland and Morgana have been overflowed from the Ashton crevasse and the breaks in the levees every year since 1865; and as [I] have before said, these overflows have rendered it impossible to cultivate the places, so that they have become almost as if never cleared.

Albion was overflowed during the same years as Melbourne; these two places adjoin each other, and are about the same place, so that the water that overflows one will overflow the other. The effect of

the overflows on it was disastrous, preventing its cultivation
133 to any extent and causing it to grow up in bushes and trees. During the years that Albion was not overflowed since 1869 the greater portion of it probably has been in cultivation.

Wilton was partially overflowed in 1881 and almost entirely overflowed in 1882, but with the exception of the resulting loss of crop the place was not injured thereby.

To int. 10th. During the years from 1867 to 1884, both inclusive, neither Westland nor Morgana were worth any rent at all.

For 1867 and 1868, Albion was worth nothing; for 1869, I had control of Albion plantation, and it was in such a bad condition that it was worth nothing to rent; for 1870, about $1,500.00. I had control of the place this year (1870) also, and had considerable land in cultivation; for 1871, nothing, as it was overflowed; for 1872, about $1,000.00; for 1873, same as in 1872; for 1874, nothing—overflowed; for 1875, about $800.00; for 1876, cannot say, as I do not recollect whether it was overflowed that year; for 1877, about $1,000.00; for 1878, 1879, and 1880, about $1,500.00 per annum; for 1881 and 1882 and 1883, nothing, on account of overflow each year; for 1884, $500.00.

134 Wilton, for 1867 and 1868, *it* was worth nothing at all for rent; for 1869, about $500.00; for 1870, $1,500.00, a good deal of fencing and building having been done since the year previous. I had control of Wilton and Albion during the years 1869 and 1870, and was on the places nearly every day during those years; for 1871, $1,500.00; for 1872, '73, '74, '75, '76, '77, '78, '79, '80, $1,500.00 per annum; for 1881, $1,200.00—partially overflowed; for 1882, nothing, on account of general overflow; for 1883, $800.00; for 1884, $1,500.00.

To int. 11th. As to Melbourne, considering the repeated overflows and the damages sustained thereby in filling up of the ditches, washing away of houses and fencing, and the following growth of bushes and trees, and considering the necessary outlay for restoring and repairing the place after each overflow and replacing the tenants thereon, and considering also the condition the place was left in at the close of the war, I do not think that any revenue or pecuniary profit has resulted to its possessors, as such outlays have been as much or more than the gross revenues therefrom.

135 If this place had not been improved after the war, but had been left in the wasted state it was in at its close, I do not think it would have sold at public sale during the years 1868 and 1869 for more than five dollars per acre.

From Morgana and Westland no revenue whatever could have been derived. The condition of these places have been described by me.

Albion has not sustained as much injury from overflow as Melbourne, nor have the improvements placed upon it been as expensive, substantial, or extensive as those on the latter place, and I think that its possessors must have realized some profit or nett revenue therefrom, but to what amount or extent it is impossible for me to say.

As to Wilton, from 1867 to 1869 there was no pecuniary profit therefrom, but from 1869 up to the present, excepting the years 1881 and 1882, there was some nett revenue derived from Wilton, but to what extent I cannot say positively, as I do not know at what prices the land was actually leased out to the tenants, but I would suppose they would amount to as much as one thousand dollars per annum.

136 My answers to the previous interrogatory (int. 10th), wherein the rental for each place for each year is fixed, have been based upon the improved conditions of the places as they existed in those years; but if Melbourne, Albion, Morgana, and Westland had not been improved since the war, but had have been left in the condition they were in at its close, they could not have been rented at any price. Westland and Morgana, as before stated, have actually remained in about the same condition. Wilton, having some houses left on it, could have been rented for something, but at much less prices than those named.

Answers to Cross-Interrogatories.

To X int. 1st. I did; I think he died in the year 1860.

To X Int. 2d. He himself, of Wilton, Albion, and Morgana; Oliver T. Morgan, of Westland; Oliver Kellam and his widow, Mrs. M. M. Kellam, of Melbourne. On the death of Judge Oliver J. Morgan, Oliver T. Morgan took possession of Wilton, Albion, and Morgana as executor of the estate of Oliver J. Morgan, and he remained in possession of Westland, and Melbourne remained

137 in the hands of its former possessors, not having been in the possession of Oliver J. Morgan, as above said.

To X int. 3d. As I have said before, he had possession of Westland long before Oliver J. Morgan['s] death, and took possession of Wilton, Albion, and Morgana as his executor on his death, and he retained possession of them until his (Oliver T.'s) death.

To X int. 4th. Oliver T. Morgan, the executor, to the best of my knowledge.

To X int. 5th. It is impossible for me to say how much cotton or how much corn was made on each of these place- for the years enquired of (1860 to 1884), except for the years 1869 and 1870, on Wilton and Albion, during which years (as I have said) I managed these two places; in 1869 I worked Wilton and Albion together as one place, and made about 550 bales of cotton, of which I (as manager or agent) received one-fourth ($\frac{1}{4}$), the balance belonging to the tenants, for same year, about 4,000 bushels corn, of which we received one-fourth, balance belonging to the tenants; the principal portion of this was used in feeding the stock. In 1870 these two places were cultivated in the same way, and there was about 800 bales

138 of cotton and little or no corn raised, of which I again received one-fourth as rent, the balance belonging to the tenants.

I do not recollect the value of cotton or corn previous to 1868; in that year cotton sold at 25 cts. per pound; in 1869 it was worth about 20 cts. per pound; corn had no fixed price here at that time;

in 1870 cotton was worth 14 cts. per pound, since which time it has gradually declined to about 9 cts. for last year.

To X int. 6. I do not know that any of those places were leased out during any of the years named, except that in 1866 Mr. H. B. Tebbetts had possession of Wilton, but whether under a lease or not I do not know, and in 1867 Sam'l Chambliss had possession of the same place, but of the nature of his possession I have no knowledge—suppose it was leased—and in 1869, '70, '71, Wilton and Albion were under the control of Oliver T. Morgan, as executor of the estate of O. J. Morgan. This [is] all I know about the matter.

To X int. 7th. My answer to the foregoing interrogatory contains all the knowledge I have about the matter inquired of and
139 answers this question.

To X int. 8th. I cannot answer this question, as I have no knowledge as to how or upon what system the places were cultivated, except Wilton and Albion. During these two years these two places were cultivated on shares, or rather were leased to tenants for a share of the crop as rent, the tenant retaining ¾ of the crop and paying ¼ to the landlord. The executor, Oliver T. Morgan, received the same. As said in my answer to X int. 5, the share of the executor was about 112 bales of cotton and 1,000 bushels of corn, in 1869, and about 200 bales of cotton in 1870, and the value of this I have also given in said answer.

To X int. 9th. If the places had remained in as good condition as they were at the beginning of the war, and had have been well managed and thoroughly cultivated, and if the seasons had have been propit-ous and no casualties to the crop, such as worms and overflows, I think that, with free labor, Wilton would have produced on an average during the years named about 300 bales cotton and 1,200 bushels corn; Melbourne about 400 bales cotton and
140 1,500 bushels corn; Morgana, about 300 bales cotton and 1,000 bushels corn; Albion about 300 bales cotton and 1,500 bushels corn; Westland, about 250 bales cotton and 1,000 bushels corn. For the values I refer to my answer to X int. 5.

But, owing to the dilapidated condition of the places, repeated overflows, *et cet.*, which has been heretofore described, it has not been practicable to cultivate the places in the manner supposed by the question, and therefore I cannot answer from any practical knowledge.

To X int. 10th. If the places have had been kept in thorough repair—say as they were in 1860—cultivated with free labor, a fair average rental for Melbourne would have been about $3,000 per annum; for Albion, about the same; for Wilton, about $2,500; for Morgana, about $2,000; and for Westland, about $1,000.

But, as I have already said, after the war it has been almost impossible to cultivate plantations well, or to procure labor for their cultivation, or to procure levees for large quantities of land, and these places have been in bad condition. I have already, in
141 my answer to direct interrogatory 10th, given my estimate of their values for rental during these years, in their actual condition.

To X int. 11th. I have already stated all that I know about these matters in my previous answers, and I can add nothing thereto.

JAMES BEARD.

Sworn to and signed before me this 11th day of August, A. D. 1885.

J. M. KENNEDY,
Special Commissioner.

And I further certify that the answers of said witness were by me then and there reduced to writing and signed by him in my presence.

Witness my hand this 10th day of August, A. D. 1885.

J. M. KENNEDY,
Spec. Commissioner.

Answer of W. B. Keene.

And on the 13th day of August, A. D. 1885, I caused to personally appear before me, W. B. Keene, also one of the witnesses named in said commission, who, being by me first cautioned and duly
142 sworn to tell the truth, the whole truth, and nothing but the truth in answer to the direct and cross interrogatories annexed to said commission and to him propounded, did answer, depose, and say as follows:

Answer to Direct Interrogatories.

To int. 1. I am forty-four years old; am a planter, and have been since 1867.

To int. 2. Yes; all my life.

To int. 3. It was abandoned and labor moved to Texas; all the houses, gins, and stables were burned. It remained in that dilapidated and abandoned condition until late in the spring of 1867, when a small portion was put in cultivation by Charles Atkins.

To int. 4. It was overflowed in 1866 & 1867; again in 1871; again in 1874, '76, '81, '82, '83, and partially in 1884.

In 1866 and 1867 there were no houses or labor on the place, and but little land cultivated. In 1871 the levee broke in front of the place and most of the labor abandoned it. In 1874 the place was about three-fourths (¾) under water from the Bars crevasse, and ditches more or less filled by deposit. I hunted deer on the place during the overflow. I do not remember the effects of the
143 overflow in 1876. In 1881 the levee broke immediately in front of the Melbourne; the labor was driven off by the water, some of the houses washed down, the ditches were filled, and sand banks deposited on the place.

In 1882 the overflow was more general than in 1881; the water remained on the whole place until the middle of August; the ditches were again filled, and many of the houses banked up and filled with sand, and the foundations and chimneys of others washed down. In 1883 three-fourths (¾) of the place was overflowed from the

Illawara crevasse, and ditches that had been thoroughly dug out again filled, and that part of the land overflowed grew up in willow and cotton-wood bushes. In 1884 the place was more or less damaged by overflow—water backing up on it from the rear.

In each year of overflow the labor was either partially or entirely driven off by the water.

To int. 5. The houses have been rebuilt, ditches dug, land cleared of undergrowth, and the plantation placed in a fine state of cultivation.

To int. 6. If the water remains up long, nothing; if it goes
144 down early enough to plant, from $2.00 to $3.00 per acre.

To int. 7th. From $3.00 to $5.00 per acre, if not overflowed. I understand that Melbourne is leased this year from the receiver of the Morgan estate at $3 per acre.

To int. 8th. If the property was put and kept in repair by the lessor, I would say for 1868, $500; for 1869, $2,000; for 1870, $2,000; for 1871, overflowed, say $500; for 1872, $2,000; for 1873, $2,500; for 1874, overflowed, say $800; for 1875, $2,500; for 1876, overflowed, $1,000; for 1877, $2,500; for 1878, $3,000; for 1879, $3,500; for 1880, $3,500; for 1881 and 1882, overflowed, and the land was given to the labor free of rent as an inducement to return; for 1883, overflowed, $1,500; and for 1884, $3,000.

To int. 9th. Yes; all houses and gins were burned during the war, excepting the dwelling on Wilton and a few negro cabins on Wilton and Morgana.

Morgana, Westland, and Albion were grown up in bushes and small trees, and the ditches on Wilton were filled.

They were in about the same condition in 1867 and 1868 as just after the war, excepting Wilton, which had some land in cultivation.

145 Morgana and Westland have been overflowed every year, and it has been impossible to keep any labor of any consequence on them. These places are grown up in bushes and trees, and have very small amounts of land in cultivation.

Albion has been frequently overflowed, and a considerable portion of the place has grown up in trees, &c.

Wilton has not suffered so much from overflow as the other places. In 1871, 1881, & 1882, it was partially overflowed from crevasses in front of Melbourne.

To int. 10th. For Albion, 1867, nothing; 1868, nothing; 1869, $250.00; 1870, $350; 1871, overflowed, nothing; 1872, $300; 1873, $300; 1874, overflowed, nothing; 1875, $400; 1876, $350, being partly overflowed; in 1877, $500; 1878, $500; 1879, $800; 1880, $800; 1881, $200—overflowed; 1882, overflowed, nothing; 1883, $200, being ¾ overflowed; and 1884, $1,000.

For Wilton, for 1867, $500; 1868, 500; 1869, $600; 1870, $600; 1871, $500, being partially overflowed; 1872, $700; 1873, $800; 1874, $1,000; 1875, $1,000; 1876, $1,000; 1877, $1,000; 1878,
146 $1,000; 1879, $1,000; 1880, $1,000; 1881, $600—partly overflowed; 1882, $600—again partly overflowed; 1883, $1,000; 1884, $1,000.

For Morgana, from 1867 down to 1878, both inclusive, nothing at all; for 1879, '80, '81, $75 per annum; 1882, nothing; 1883, $50; 1884, $75.

Westland, being all grown up in trees and bushes, was worth no rent whatever.

To int. 11th. I do not think the revenues have been sufficient to repay the repairs and taxes on the places.

The property was in such bad condition at the close of the war that it was not in a condition to lease or sell.

If Melbourne had not have been improved it would not have brought more than ($5) five dollars per acre at a public sale at any time since the war; neither would Albion. Morgana and Westland, not having been improved since the war, but being mostly in the woods, a fair price for Morgana during this time would have been $2.50 per acre, and for Westland $1.25 per acre, while that for Wilton would have been $15 per acre.

Answers to Cross-Interrogatories.

147 To X int. 1. Yes; he died in the spring of the year 1860.

To X int. 2. Oliver J. Morgan had possession and control of Albion, Wilton, and Morgana up to his death. After Oliver T. Morgan married Oliver J. Morgan['s] daughter he (Oliver T.) cleared the land and built up the Westland plantation, and had the possession and control thereof until the death of Oliver J. Morgan. For eight or ten years before the death of Oliver J. Morgan, Oliver H. *H.* Kellam had possession and control of Melbourne until his (Kellam's) death, when it passed into the possession and control of his widow, who kept it until she moved away to Texas, in the spring of 1862, and since the war John A. Buckner has had possession thereof.

After the death of Oliver J. Morgan, his executor, Oliver T. Morgan, took possession of the estate, including all those plantations, except Melbourne, he (the executor) remaining on Wilton, where he had resided before the death of Oliver J. Morgan.

To X int. 3d. Yes; he took general control of all of them,
148 except Melbourne. He took control immediately after the death of Oliver J. Morgan, and retained possession until the probate sale in 1869.

To X int. 4th. Oliver T. Morgan lived in the Wilton dwelling-house, and took possession of all the personal property, as far as I know.

To X int. 5th. It is impossible for me to state the number of bales of cotton and barrels of corn, never having seen the plantation books.

I do not remember the price of cotton in 1860 and 1861. During the war there was no market for cotton; do not remember the price for 1865 and 1866; from 1867 to 1879 cotton was worth from 8 to 9 cts. per pound, on an average, and from 1879 to 1884, 10 cts. per pound. The general price of corn was from 50 to 60 cts. per bushel.

To X int. 6th. From 1860 to 1866 none of said places were leased.

In 1866 H. B. Tebbitts leased a part of Albion, Wilton, and Melbourne, but from [whom] he leased, what rent he paid, or to whom he paid, I do not know.

From 1867 to 1884, both inclusive, none of the places have been leased in a body.

149 From year to year portions of them have been leased out to colored tenants, but at what rent I do not know.

X int 7th. H. B. Tebbetts rented parts of Melbourne, Wilton, and Albion in 1866, but I do not know what rental he paid or to whom he paid it.

Montagne was put there during the war by United States authorities.

Samuel L. Chambliss cultivated a part of Wilton in 1867; I do not know from whom he leased it or whether he paid any rent.

To X int. 8th. I do not know of any such share contracts, as I never had excess to their books.

To X int. 9th. Owing to repeated overflows and the dilapidated condition of the property, it would have been impossible to have thoroughly cultivated them, and for this reason it would be impossible to give an answer based on actual knowledge.

To X int. 10th. If the property had been left in good repair at the close of the war and been kept so, a fair average rental for Melbourne during the years named would have been about $3,000 per annum; for Wilton, the same; for Albion, the same; for Morgana, about $2,000 per annum; for Westland, $1,500 per annum.

150 This estimate is based upon the supposition that the different places were kept in as good order as before the war; but the property was left in very bad condition at the closing [of] the war, in 1865; all the buildings, fences, and ditches had been destroyed, excepting a few houses on Wilton & Morgana, and the labor and stock removed; and, considering the frequent overflows, it would consume the rental of each year to keep the property up to its present condition and pay taxes, salary of superintendent, and cost of getting labor on the property.

To X int. 11. All the knowledge I have of this matter has been given in my answers to the previous questions.

The executor, Oliver T. Morgan, took possession of all the personal property on Wilton, Albion, Morgana, and Westland.

I do not know how much rent or revenue the heirs of Oliver J. Morgan or of Julia Morgan have received, but think it has largely, if not all, gone towards rebuilding the houses and making general repairs on the property.

W. BODIEN KEENE.

Sworn to and signed before me this 13th day of August, A. D. 1885.

151 J. M. KENNEDY,
Special Commissioner.

And I further certify that the answers of said witness were by me then and there reduced to writing and by him subscribed in my presence.

Witness my hand, officially, this 13th day of August, A. D. 1885.

J. M. KENNEDY,
Spec. Com.

Answer of Thos. B. Rhodes.

And on the 25th day of August, A. D. 1885, I caused to personally appear before me Thos. B. Rhodes, also one of the witnesses named in said commission, who, being by me duly sworn to tell the truth, the whole truth, and nothing but the truth in answer to the direct and cross interrogatories annexed to said commission and to him propounded, did answer, depose and say as follows:

Answers to Direct Interrogatories.

To int. 1. I am forty-one years old; am a planter and have been for nineteen years past.

To int. 2. I do; have been living on the adjoining plantation since 1869, and in the immediate neighborhood since 1866.

152 To int. 3. During the war it was abandoned and all the improvements destroyed; and at the close of the war it was in this condition, with a large portion grown up in trees and bushes. In 1867 it was almost entirely overflowed and a complete wreck.

To int. 4th. It was overflowed in 1866, '67, '68, '71, '74, '76, '81, '82, '83, and a small portion in 1884. The effect of the overflows of 1866, '67, & '68 was to prevent the cultivation of the place, except to a very limited extent, and to cause it to grow up in young trees and bushes. In 1871 the current of the overflow passed immediately over the place, filling the ditches, depositing large quantities of sand on the place, carrying away the fences, washing down the houses that had been rebuilt since the close of the war, and generally devastating the place.

The overflows of 1874 & 1876 came from back water, and prevented about two-thirds of the place from being cultivated.

The overflows of 1881 and 1882 came from a crevasse on the front of Melbourne, and were more disastrous than that of 1871, the place being damaged to greater degree even than in that year.

In 1883 the ditches were again filled and the place materially injured.

153 The overflow of 1884 was of limited extent. The general effect of these overflows have been to damage the place to such an extent that it has required large sums of money to restore it after they had subsided, and to cause it to be a drain upon its possessor. They drove off the labor, which was very difficult and expensive to replace.

To int. 5. The place is in a very fine condition now. It is splendidly ditched; is well provided with good houses for labor; well fenced, with good stables and barns and a good steam-gin, and well stocked with labor.

To int. 6th. Where land is overflowed a person does well to get the labor to remain on the land rent free, and that is the inducement which is usually offered to get them to remain.

To int. 7th. From $2.50 to $3.00 per acre. I do not know of any that rents for more.

To int. 8th. For 1867 and 1868, nothing. It could not have been rented at all on account of overflow and the dilapidated condition of the place. For 1869, $800; for 1870, $1,500; for 1871, nothing—overflowed; for 1872, $800; 1873, $1,500; 1874, nothing—overflowed; 1875, $1,500; 1876, nothing—overflowed; 1877, '78, '79, & '80,
154 $2,000 per annum; 1881, '82, '83, nothing—overflowed each year; 1884, $1,000 or $1,500.

These estimates are based upon the actual condition of the place each year after it had been improved by the possessor. Had it been suffered to remain unimproved it would have brought no rent.

To int. 9th. I am acquainted with all of these plantations also.

They were all much injured and dilapidated and the improvements burned, except on Wilton. On Wilton the stables, gin-house, and fencing were burned, but the dwelling-house and negro cabins were not destroyed, and this was the condition of the places at the close of the war.

In 1867 & 1868 they were in the same condition as at the close of the war, so far as improvements were concerned, and in a worse condition for cultivation, as they had continued to grow up in trees and bushes.

Westland and Morgana have been overflowed every year since 1865, or so nearly every year that no revenues has been derived from either or could have been.

Albion has been more or less overflowed every year that Melbourne has. (See answer to 4 int.)

155 Wilton was overflowed in 1882, which covered fully ⅔ of place.

The effects of these overflows have been so disastrous to Westland as to render it a wilderness, and upon Morgana very nearly as bad.

Albion has been injured to some extent in causing the labor to move away and crops to be lost; but Wilton has not been injured by overflows.

To int. 10. I am not sufficiently acquainted with the amount of cultivable land on Albion to state what would be a fair rent *from* for the place as a whole, but would say about $2.50 per acre for the cultivated land—except for the years it was overflowed.

I think Wilton was worth a rental of $2,000 per annum for every year from 1867 to 1884, both inclusive.

Neither Westland nor Morgana have been worth anything for rent. No one would have cultivated them at his own expense for the use of the places free.

To int. 11. I have nothing further to add, except that as to Melbourne the expenses that have been necessarily incurred in
156 restoring the place after its complete devastation by the war, and its successive rebuildings and re-establishments following the overflows, and other necessary expenses of cultivating the place,

have fully equaled, if not exceeded, the revenues derived from the place; so that its possessor could not have derived any pecuniary advantage or profit from it.

Westland and Morgana have not more than (if they have actually) paid their taxes.

If these places had have been offered at public sale at any time subsequent to the war in the condition they were in at the close of the war—that is, if they had not have been improved since the war, the Melbourne place would not have brought more than $5 per acre for the open land and $1 per acre for the woodland; Albion, about the same; Wilton would have brought more, but cannot say how much; Morgana, about $3 per acre, and Westland about what woodland would have brought—say $1 per acre.

To Cross-Interrogatories.

To X int. 1. I did not know him; do not know where he died, except from hearsay.

157 To X int. 2. I cannot answer this question, as I was not in this portion of the country at that time. I came here with the Federal army, in 1863.

To X int. 3. I cannot say, as I know nothing of it, except that I know that Col. John A. Buckner has had possession of Melbourne ever since I have known the place.

To X int. 4. I cannot say, for, as I have said above, I was not in this portion of the country at that time.

To X int. 5. It is impossible for me to answer this question, as I have no means of knowing. Since 1867, cotton has averaged about 9½ cents per pound, and corn about 60 cents per bushel.

To X int. 6. I cannot answer the question, as I do not know.

To X int. 7. I cannot answer, as I have no knowledge of the matters enquired of.

To X int. 8. I cannot say; I do not know.

To X int. 9. It is impossible for me to answer.

Any answer I could make would be the nearest guess-work.

158 To X int. 10. If the property had have been kept in as good condition as it was at the beginning of the war—that is, in thorough repair—and barring overflows and disasters to crops, a fair rental for Melbourne, I think, would have been about $3,000 per annum; for Albion the same; for Wilton, $2,500; for Morgana, $2,000; for Westland, about $1,000.

To X int. 11. I have stated all within my knowledge regarding the matters inquired of, and I cannot answer further.

THOS. B. RHODES.

Sworn to and signed before me this 25th day of August, A. D. 1885.

J. M. KENNEDY,
Spec. Com.

And I further certify that the answers of said witness were by me then and there reduced to writing and signed and subscribed by him in my presence.

Witness my hand this 25th day of August, A. D. 1885.

J. M. KENNEDY,
Special Commissioner.

159 *Interrogatories to be Propounded to Jno. A. Buckner.*

United States Circuit Court, Eastern District of Louisiana. In Equity.

JNO. A. BUCKNER *et al.*
vs.
STEVENSON WATERS, Adm'r of Estate of Wm. Gay.
NARCISSA KEENE, Wife, &c., *et als.*
vs.
SAME.

Nos. 10633 and 10634 Consolidated.

Interrogatories to be propounded to Col. Jno. A. Buckner, of East Carroll parish, La., whose answers thereto will be offered in evidence in behalf of the defendant, Stevenson Waters, administrator, on the final hearing of the causes.

First. Are you the John A. Buckner who is one of the complainants in suit No. 10633? Are you the same Jno. A. Buckner who was one of the defendants in cause No. 6612, lately pending in this court and referred to in the bill of complaint in 10633, and wherein Stephenson Waters, administrator of the succession of Wm. Gay, deceased, was complainant?

160 Second. Were you not a witness in suit 6612, and did you not testify therein by deposition?

Third. We find at pages 196 & 197 of the printed record in cause 6612, as prepared for the Supreme Court of the United States, on appeal, said cause being numbered 297 on the docket of the said Supreme Court, the following statement given as a part of your testimony, to wit: Witness has known Wilton, Albion, and other plantations belonging, or that did belong, to the succession of Oliver J. Morgan, about 20 years. Witness has known them thoroughly during the time. The lands that belonged to Judge Oliver J. Morgan before the war, some 15,000 acres, were regarded as a very valuable estate—one of the most valuable in the State of Louisiana. Witness was aware of the amount of the inventory of the property of the succession of Oliver J. Morgan just after his death; said amount was about $1,200,000.00, including real and personal property; that the landed estate was valued at about $947,000. Witness considered the inventory as a fair valuation of the property at the time; thinks that Judge O. J. Morgan died in the spring of 1860, and the inventory was taken in the fall of the same year; thinks that in 1860 Wil-

161 ton produced about 500 bales of cotton; Albion, about 700 bales; Morgana, about 600 bales; don't know what Westland produced; Oliver T. Morgan planted on that place. Melbourne pro-

duced about 700 bales. In 1861 witness thinks that about 1,500 bales were produced on these places, except Westland, the crop of which latter he knows nothing. Witness does not remember the amount of crops produced on these plantations in 1862; thinks that all the cotton raised in 1861 was burned by order of the Confederate authorities; the crop of 1860 was shipped to New Orleans; knows that his own cotton of 1861 was burned, but *I* don't know of his own knowledge that the other was; don't know what became of the crops of 1862 and 1863, as he was in the army. Witness states that after he returned from the army he made enquiry as to what became of the personal property belonging to said succession; never made any enquiries of the *of the* executor of O. J. Morgan, or of Matt. F. Johnson what had become of said personal property, but the enquiry was made of other citizens.

When he returned after the war there was no personal
162 property, silver-ware, or furniture in the house or on the plantation; thinks that Montagne had charge of and cultivated Melbourne and Wilton in the year 1863, and H. B. Tebbits had charge of the same places during the years 1864 and 1865. In 1866, H. B. Tebbets rented Wilton and Melbourne; don't think he took Albion; he was to pay $10 per acre rent for all the land that he cultivated. Tibbets promised Matt. F. Johnson and witness to pay $10 per acre for such lands as he should cultivate on Melbourne and Wilton in 1866. The most of the land was overflowed on Melbourne in 1866, and witness don't know how much land was cultivated. Wilton was not overflowed in 1866, to his knowledge. Witness states that Tebbetts paid him 3,000 for the rent of Melbourne in 1866; don't know how much he paid Matt. F. Johnson for Wilton, but that the rent was coming to Matt. F. Johnson from Tebbetts, according to the contract. Matt. F. Johnson and Sam'l L. Chandler cultivated Wilton [in] 1867, together—that is to say, a portion of the place. Charles Wilkins cultivated a small portion of Melbourne
in 1868, as witness' agent and manager; very little was
163 made on the place in 1868. Witness don't remember who cultivated Wilton and Albion in 1868.

Do you now confirm the foregoing testimony and say that it is true?

Fourth. Who received the proceeds of sale of the 700 bales of cotton grown on Melbourne in 1860, and what did those proceeds amount to?

Fifth. Who received the proceeds of sale of the 1,800 bales of cotton grown on Wilton, Albion, and Morgana in 1860, and what did these proceeds amount to?

Sixth. What cotton factor (and where did they have their office) sold the said crops of 1860?

Seventh. Can you tell, and, if you do so, how much, you derived from Melbourne in 1860?

Eighth. In your former testimony, printed record aforesaid, p. 206, you say that cotton was then (in 1860) worth 8 or 9 cts. per lb.,

and that 450 lbs. was considered a commercial bale; do you now confirm this?

Ninth. The object of the preceding and next following questions is to ascertain the pecuniary benefits and advantage received on the one hand by the Kelham or Buckner interests or representatives, and on the other hand by the Julia Morgan interest or rep-
164 resentatives from the succession of Oliver J. Morgan. You will please, so far as you can, answer fully and in detail (when possible) the questions now propounded, viz:

Starting with the year 1868 and ending with the year 1884—that is, from 1868 to 1884, both inclusive, state—

1st. How much cotton the Kelham or Buckner interest or representatives received from the five plantations in controversy, or any of them, for each and every one of said years, and what was the price or value of said cotton? A seperate statement for each year is desired.

2nd. How much other agricultural products the Kelham or Buckner interest or representatives received from said five plantations, or any of them, for each and every *year* one of said years, and the price or value of said products. A seperate statement for each year is desired.

3rd. How much cotton the Julia Morgan interest or representatives received from the said plantations, or any one of them, for each and every one of said years, and what was the price or value thereof? A seperate statement for each year is desired.

165 4th. How much other agricultural products the Julia Morgan interest or representatives received from said plantations, or any of them, for each and every one of said years, and what was the price or value thereof; a seperate statement for each year is desired.

NOTE.—In answering divisions 3rd and 4th, seperate, if you can, what was received by Mrs. Matt. F. Johnson and her husband, or either of them, from what was received by Mrs. Geo. Johnson and husband, or either of them.

5th. Were any of said plantations, or any parts of these, leased or rented for any of said years? If yea, please state which of said plantations, or what parts of any of them, were so leased or rented, and by whom or to whom they were leased or rented and the amount of rental, and by whom said rentals was received.

6th. What was a fair rental value of said plantations for said years? State seperately for each year and each plantation—that is, for what during each of said years could each of said plantations have been leased had the parties in possession preferred to lease rather than cultivate.

166 Ninth. When did Oliver J. Morgan die? Upon his death who claimed and held possession of said five plantations and each of them? Was there afterwards any change in said possession, by death or otherwise, of the possessors or any of them? Did not those who claimed and held possession on the death of Oliver J. Morgan, by themselves or their heirs or legal representatives or les-

sees or assigns, hold continuous possession of said plantations till the fall of 1884? If not, when did any change of possession take place in any respect or particulars, and what was such change? Did not Oliver T. Morgan, executor of O. J. Morgan, take possession and control of said plantations after the war?

Tenth. Was not Oliver T. Morgan the executor of Oliver J. Morgan, and did not Matt. F. Johnson become dative testamentary executor after the death of the first executor? Did either one of said executors in his official capacity and character ever take actual possession of said plantations or any of them; or, as a fact, did not the heirs of said Oliver J. Morgan have possession of all said plantations and the property thereon on the death of said Morgan, and
167 by themselves, their heirs and representatives, keep possession thereof until the fall of 1884, and did not these said heirs and their heirs or legal representatives dispose of all or a part of the movables of O. J. Morgan's succession as their own, and rent, lease, or cultivate said plantations, or some of them, as their own?

Eleventh. Did said executors or either of them, in his official capacity, lease or rent said plantations or any of them, or receive, take, or dispose of any movables of said succession, or any of the crops grown on said plantations or any of them, and sell or ship the same to market for account of said succession?

Twelfth. Please state what, if any, debts of the succession of Oliver J. Morgan have been paid by said executors or either of them, or by said heirs and their heirs or representatives or any of them.

Thirteenth. Do you know anything of a claim of the succession or heirs of Oliver J. Morgan against the Government of the United States? By whom was that claim collected? What was the amount received? Did you, in behalf of the Kelham interest, receive or claim an interest in the amount?

168 Fourteenth. The design of the principal part of this examination being, as before stated, to ascertain what pecuniary benefits were received from the estate of Oliver J. Morgan by his heirs, their heirs or representatives, you will please state all matters within your knowledge not already stated tending to that end as fully and completely as if specially interrogated thereto.

Fifteenth. Please give the names of the various cotton factors to whom the crops of said plantations from 1860 to 1884, inclusive, were shipped for sale, and the places of business of said factors.

Sixteenth. You will recollect that in cause 6612, referred to in your bill of complaint, there was evidence of an instrument called an act of sale and donation or gift executed by Oliver J. Morgan in his lifetime, March 9th, 1858, and a copy of which is found at page 55 of the printed transcript, in and by which said Morgan undertook to convey three-fourths of his property to his daughter Julia, but in which he reserved the usufruct until his death. We now ask, Was there not at or about the same time another instru-
169 ment of like or similar import prepared or discussed, in and by which said Oliver J. Morgan proposed to convey the other

one-fourth of his property or some part thereof—perhaps the Melbourne plantation—to his presumptive forced heir, young Kelham; and did it not fail of execution because you or some other person advised against it?

W. F. & D. C. MELLEN,
Sol'rs of Stevenson Waters, Adm'r.

Consent is hereby given that a commission issue directed to J. M. Kennedy, of Lake Providence, of East Carroll parish, Louisiana, to be named special commissioner in the commission to be issued by the clerk or to any judge, notary public, or other person authorized to administer oaths in said parish, to take the depositions of the witness, Jno. A. Buckner, in answer to the foregoing direct interrogatories and the following cross-interrogatories, motion, affidavit, and order being hereby waived, all objections being reserved to the relevancy of the testimony.

July 8, 1885.

T. J. SEMMES,
Sol. for Compl'ts.

170 *Additional Direct Interrogatories.*

Seventeenth. Did or did not the heirs of Oliver J. Morgan recognize O. T. Morgan as the executor of O. J. Morgan? Did he require of them any account for rents and revenues?

Eighteenth. Shortly after the death of Oliver J. Morgan was there not an inventory of his succession taken? Were not all of said five plantations included in said inventory? Did you or any of the heirs of Oliver J. Morgan make any objection to the property being so inventoried.

Nineteenth. Did you not, previous to the sale of 1869 (& which sale was set aside and annulled in cause 6612), in behalf of yourself and your daughter Nellie or Mollie, or one of you, institute proceedings to have the Melbourne and the other 4 plantations sold as property of the succession of Oliver J. Morgan?

W. F. & D. C. MELLEN,
Sol'rs for Def't Waters.

Same consent to the additional as to the original direct interrogatories.

T. J. SEMMES & BAYNE,
Sol'rs for Compl'ts.

171 *Cross-Interrogatories Propounded by Complainants.*

United States Circuit Court, Eastern District of Louisiana. In Equity.

JNO. A. BUCKNER & *al.*
vs.
STEVENSON WATERS, Adm'r of Estate of Wm. Gay.

NARCISSA KEENE, Wife, &c.,
vs.
SAME.

Nos. 10633 & 10634 Consolidated.

Cross-interrogatories propounded by complainants in the above-entitled causes to John A. Buckner, a witness for the defendant:

1. When did the first husband of your late wife, Malinda Kelham, die?

2. When did you marry Mrs. Malinda Kelham, and when did her son, Oliver H. Kelham, die, and how old was he at the time of his death?

3. When did your wife, Mrs. Malinda Kelham, die, and when did your son, John Buckner, die, and how old was he at the time of his death? When did your daughter Louisa, called
172 Mollie, die, and how old was she at the time of her death?

4. When did you marry the mother of Etheline Buckner? When was your child Etheline born? Was she your only child born of your second marriage at the time of Mollie's death?

5. When was Melbourne plantation first set apart and given by Oliver J. Morgan to the ancestor of his great grandson, Oliver H. Kelham, the son of your first wife, Mrs. Melinda Kelham? What was the condition of Melbourne when so originally set apart and given? Was it improved or unimproved? If unimproved state to what extent the ancestor of said Oliver H. Kelham improved it and in what manner and the expense thereof. State whether or not the Kelhams, during the lifetime of Oliver J. Morgan, improved and cultivated said plantation as their own with the consent of said Morgan, and whether or not they ever accounted for rents and revenues of said plantation to said Morgan during his lifetime, and whether or not said Morgan ever called on them so to do.

6. In whose possession was Melbourne plantation at the
173 time of the death of Oliver J. Morgan? Did or did not said plantation remain in the continuous possession of the Kelhams or their representatives from the time it was originally given or set apart to them by Oliver J. Morgan until dispossessed by the receivers appointed by this court in suit No. 6611?

7. Did you or any of the Kelhams, or their representatives, receive or enjoy any of the cotton crops on hand at the time of the death of Oliver J. Morgan in 1860, or produced during that year on Albion, Wilton, Morgana, and Westland plantations? Have you

or any of Kelhams or their representatives ever received any of its rents and revenues of the aforesaid plantations?

8. Have you or any of the Kelhams, or their representatives, ever received or had in your possession any of the personal property inventoried in the succession of Oliver J. Morgan?

9. Have you or any of the Kelhams, or their representatives, ever received any money said to have been collected by the executor from the Government of the United States on account of some claim against said Goverment?

174 10th. What was done with Melbourne plantation during the late war—say during the years 1861, 1862, 1863, 1864, and 1865—and what was its condition during the war and at the termination thereof?

11. In giving an account of the revenues of the said plantation called Melbourne, please take each year, and state how many times said plantation was overflowed or otherwise devastated and who reinstated it so as to render it fit for cultivation or production, and at what cost? Make up a general statement showing the net revenue, if any, after paying all expenses, including a reasonable amount for your services as superintendent of said Melbourne plantation.

12. Was there not, at the time of the death of Oliver J. Morgan, any indebtedness existing against Melbourne plantation for expenses incurred in clearing the land, building houses, ditching, and other improvements on said plantation? If yea, state all the facts connected therewith, and when and by whom said indebtedness was paid and the amount thereof.

13. In giving the names of the factors to whom cotton from
175 Melbourne was shipped by you, please state whether you had under cultivation other places, and whether the cotton produced on these other places was shipped to the same factor, and whether an inspection of the accounts will enable us to distinguish the cotton shipped from Melbourne from other cotton shipped from other places; by other places we mean places other than those referred to in this suit as the property of Oliver J. Morgan in [his] lifetime.

14. Please state any fact not particularly inquired about which may throw light on the subject-matter under investigation in this suit.

T. J. SEMMES & BAYNE,
Of Counsel for Def'ts.

Additional Interrogatory.

In order to ascertain your precise interest in the Kelham estate and when it vested, please state the chain of heirship by which the Kelhams'—in time has become—in your and your daughter Etheline, commencing with your marriage with Mrs. Kelham.

T. J. SEMMES & BAYNE.
Sol's for Compl't.

176 *Additional Interrogatory.*

If you say crops were produced on Melbourne plantation, were or were not large expenditures necessary to provide mules, horses, implements, wagons, gins, besides ditching, fencing, buildings, &c.? State what expenditure- were thus incurred, especially in 1867 and other years. Did or did not O. J. Morgan, in his lifetime, or his estate since, ever contributed to the expense of developing Melbourne plantation or putting it in cultivable condition, or to the payment for buildings, fences, ditches, mules, horses, negroes (in time of slavery), or any improvement whatever? Who paid all such expenses?

What, on the other hand, is the condition of Albion, Wilton, Morgana, and Westland now and what has been the condition of each of said plantations since the war? As to Morgana and Westland, who has had possession of them since the probate sale in 1869?

T. J. SEMMES & BAYNE,
Sol'rs for Compl'ts.

177 *Deposition of Jno. A. Buckner.*

United States Circuit Court, Eastern District of Louisiana. In Equity.

JOHN A. BUCKNER *et al.* *vs.* STEVEN WATERS, Adm'r of the Estate of Wm. Gay, and NARCISSA KEENE, Wife, &c., *vs.* SAME.	No. 10633 and No. 10634 Consolidated.

I, Joseph M. Kennedy, herein acting as special commissioner under and virtue of the annexed commission issued in the above styled and numbered causes out of the hon. the circuit court of the United States for the fifth circuit and the eastern district of Louisiana, dated the 10th day of July, A. D. 1885, and to me directed, do hereby certify that on the 25th day of August, A. D. 1885, at my office, in the town of Lake Providence, parish of East Carroll, and State of Louisiana, I did cause to personally come and appear before me John A. Buckner, the witness named in said commission,

178 who, being by me first duly cautioned and sworn to tell the truth, the whole truth, and nothing but the truth in answer to the direct and cross interrogatories annexed to said commission and to him propounded, did answer, depose, and say as follows:

Answer- to Direct Interrogatories.

To int. 1. I am.

To int. 2. I was, and did testify in said suit by deposition.

To int. 3. It is true, and I confirm it, except that the land should not have been valued after Judge Morgan's death at more than

$437,961.90, the amount at which it was inventoried two years before, when Morgan bought his wife['s] interest in the community property, and I have since learned from reliable authority that all the cotton made in 1862 on these places was hauled back in the woods and subsequently burned by the Confederate cavalry. There was none made on Melbourne in 1862 that I ever knew of.

To int. 4. West, Renshaw & Cammack, of New Orleans, received the proceeds of sale of cotton grown on Melbourne during the year 1860. I have not their ac. current at present, and cannot state from memory, but refer you to their books. My statement, marked No. 1, is annexed hereto as part of my answer to this question. The
179 vouchers, showing what became of this cotton, are in the clerk's office of this parish.

To int. 5th. This should be 1,500 bales, according to my former statement. Pelcher and Goodrich were the factors of O. J. Morgan, and I suppose received the cotton. I had no opportunity of knowing the amount of proceeds.

To int. 6th. West, Renshaw & Cammack, No. 32 Perdido street, New Orleans, were the factors, and sold the crop of Melbourne, and Pelcher and Goodrich, Perdido St., New Orleans, were the factors of O. J. Morgan.

To int. 7th. My statement, No. 2, which I annex and make my answer to this question, will give the credits and debits in full for 1868.

To int. 8th. I do.

To 1st division of int. 9th. I cannot state the number of sales received, and it would not give the accurate amounts received, as some revenues have been received in money or drafts. I have made up a statement for each year, which is attached hereto and marked statement No. 2, which is my answer to this question.

To 2 div. of 9th. The statement above referred [to], marked No. 2, covers everything, and is my answer to this question also.

180 To 3d div. 9th. I have no definite knowledge of the amount of products received by the Julia Morgan interest. What I have stated in answer to int. 3d as to the number of bales made in 1860 was from the current talk of the citizens. I had nothing whatever to do with any of these places but Melbourne.

To 4th div. 9th. My answer to this is embraced in my answer to the preceding question. I had nothing to do with any of the places but Melbourne, and cannot state as to the proceeds of crops.

To 5th div. 9th. I cannot state of my own knowledge anything concerning these places but Melbourne; the other places were carried on by the executor of A. J. Morgan until 1869 (the time of the succession sale); after that Col. Matt. Johnson controlled Milton and Albion, and some of the creditors controlled what was left of Morgana and Westland.

To 6th div. 9th. It would have been impossible to leave the whole of this property during the entire time, from 1868 to 1884. It was so thoroughly ruined by the war and by the growth of timber on it, caused by overflows, for some years after the war, that only
181 small parts could be leased, and then it was almost exclu-

sively to negroes, who had to be furnished by the planter. In very many cases the negroe tenant would not make enough to pay the supply bill and rent.

To give a more definite answer to this question, I will say that for Westland no rent could have been obtained, as it has been like a virgin forest, except one small patch, ever since the war. It rents this year for one bale of cotton, and it is the first rent ever offered.

For Morgana: This place is but little better than Westland. It rents this year for two bales of cotton. For many years it brought no rent at all, and it has never rented for more than enough to pay its taxes.

For Albion, if a tenant could have been found:

1867, no rent—as the place was grown up in trees.
1868, no rent—as the place was grown up in trees.
1869, $400—badly grown up in trees.
1870, $800—somewhat improved since previous year.
1871, $250—overflowed.
1872, $500.
182 1874, $300—overflowed.
1875, $750.
1876, $500—partly overflowed.
1877, $750.
1878, $800.
1879, $1,000.
1880, $1,000.
1881, $500—overflowed.
1882, $500—overflowed.
1883, $500—overflowed.
1884, $1,000.

Wilton, if a lessee could have been found:

1868, $500.
1869, $1,000.
1871, $1,000—partly overflowed.
1872, $1,500.
1873, $2,000.
1874, $1,500.
1875, $2,000.
1876, $2,000.
1877, $2,000.
1878, $2,000.
1879, $2,000.
1880, $2,000.
1881, $1,000—partly overflowed.
1882, $300—overflowed.
1883, $2,000.
1884, $2,000.
183 Taxes and repairs to be deducted each year out of these amounts.

Melbourne, a fair rental value would have been, for—

1866 & 1867, nothing—overflowed.
1868, $1,000.
1869, $2,000.
1870, $2,000.
1871, nothing—overflowed.
1872, $1,000.
1873, $2,000.
1874, nothing—overflowed.
1875, $2,000.
1876, nothing—overflowed.
1877, $2,000.
1878, $2,000.
1879, $2,000.
1880, $2,000.
1881, nothing—overflowed.
1882, nothing—overflowed.
1883, $1,000—badly overflowed.
1884, $2,000.

I pay this year $2,100 to the receivers. These estimates are based upon the actual condition each year after they had been more or less improved.

To int. 9. Oliver J. Morgan died in the spring of 1860.
184 Upon his death the Melbourne plantation was claimed by and was in the possession of (as it had been for many years before) the Kelham heir. The other places were claimed by the heirs of Julia Morgan, but the executor took possession or control, and exercised authority over all but Melbourne. There was a change in 1869; after the succession sale took place Morgana was controlled by F. M. Goodrich, until he transferred it to Samuel Boyd, of New Orleans, who had possession until 1st Jan., 1885.

Westland after 1869 went under the control of some of the creditors of O. J. Morgan, and remained so until 1st Jan., 1885, and Col. Matt. Johnson controlled Wilton and Albion until about 1879, when Mr. Geo. Johnson took control of the lower part of Wilton and Albion.

How much was controlled by the latter I do not know, and these two places remained under their control until 1st Jan., 1885.

As to Melbourne it has never passed out of the representative of the Kellam interest.

Oliver T. Morgan did, as executor, take possession and
185 control after the war of all the places except Melbourne.

To int. 10th. Oliver T. Morgan was the executor of Oliver J. Morgan, and Matt. F. Johnson did become dative testamentary executor after the death of Oliver T. Morgan.

Oliver T. Morgan, in his official capacity, did take control of all the property but Melbourne and held control until the sale in 1869, when Johnson was appointed; the property had been sold at the probate sale; the heirs of Julia Morgan were minors, and very young

at the death of O. J. Morgan, the oldest being fifteen years old and the youngest only two years old. They did not have any control at all until 1869 (the date of the succession sale). The Melbourne plantation remained in the control of the Kellam heir.

I do not know who disposed of the moveables of O. J. Morgan's succession. Oliver T. Morgan lived in the house for several years where O. J. Morgan had lived, and the war coming on soon after O. J. Morgan'- death it was difficult to keep track of the personal property.

To int 11th. The said executor did, in his official capacity,
186 take general charge of the business of the said plantations, and whatever was leased or rented and whatever was collected was controlled by him (except as to Melbourne) until the year 1869; after which, I think, the executor was discharged, or considered himself so.

To int. 12th. I do not know what debts have been paid by said executors or by said heirs for the succession of O. J. Morgan. I have paid all the old debts of the Melbourne plantation, as my statement, marked No. 1, will show.

To int. 13th. I do know of such a claim against the Government of the United States. It was collected by Col. Matt. F. Johnson. The amount received was about $20,000, one-half of which was paid to the agent who made the collection. I did not, in behalf of the Kellam interest, receive or claim an interest in the amount.

To int. 14th. I have stated all within my knowledge that the facts will warrant.

To int. 15th. West, Renshaw & Cammack were the factors of Melbourne before the war and for a few years after. Their place of business was 32 Perdido St., New Orleans. After them Messrs. T.
L. Aivey & Co. were the factors for Melbourne, and are to the
187 present time. Their place of business is 94 Gravier St., New Orleans. Messrs. Pelcher & Goodrich were the factors for the other places in 1860. Since the war I do not know the names of the factors.

To int. 16. There was such an instrument of sale or donation, in which O. J. Morgan sought to convey ¾ of his property to his daughter Julia. This was before my marriage into the family. I did hear that he wanted to convey one-fourth (¼) to the Kellam child, but I do not remember to have seen any instrument of writing to that effect, and I do not know by whose advice it failed of execution.

To int. 17th. The heirs of O. J. Morgan did recognize O. T. Morgan as executor of O. J. Morgan. He did not require any account of rents and revenues from the Kellam representative, as he had nothing to do with Melbourne in any manner whatever. He did not come on the property, and he never spoke to any of the occupants of Melbourne as to any of the business of the place, nor did we speak to him concerning the business of the other places. I do not know what he required of the other heirs.

188 To int. 18th. There was an inventory taken of the succession of Oliver J. Morgan shortly after his death; all of said

five plantations were included in said inventory. I did not nor did any of the heirs that I know of make any objection to the property being so inventoried. We knew nothing about the taking of the inventory until long after it was done—at least the Kellam representative did not.

To int. 19th. I did consent to my attorneys instituting proceedings for the sale of the property of O. J. Morgan.

I was advised by him that I had a privilege-claim which was greater than the whole value of the property at that time, and I did not ask or care what steps were taken. Believing that I, with my daughter, owned Melbourne, I did not think it was material whether we held it as owner or as purchaser at the sale made to pay over preferred claim.

Answer- to Cross-Interrogatories.

To X int. 1. He died in 1855.

To X int. 2. I married Mrs. Melinda Kellam April 7th, 1859. Her son, Oliver H. Kellam, died in Sept, 1863. He was seven years old at the time of his death.

189 To X int. 3d. My wife, Mrs. Malinda Kellam, died in Sept., 1863. My son John died one week afterwards. He was three years old at the time of his death. My daughter Louisia (called Mollie) died in March, 1883, and was 21 years and 6 months old at the time of her death.

To X int. 4th. I married the mother of Etheline Buckner May 19th, 1866. My daughter Etheline was born Jan. 13th, 1872. She was the only child living of my second marriage at the time of Louisa['s] or Mollie['s] death, the others having died in infancy.

To X int. 5th. Melbourne plantation was first set apart and given by Oliver J. Morgan to the ancestor of his great grandson, Oliver H. Kellam (the son of my first wife), in 1853. When Melbourne was originally given to Oliver H. Kellam three-fourths of the land now in cultivation was in the woods. It was unimproved, except about 200 acres, which was only partially cleared. There was no houses on it. The steam-gin, residence, negro cabins, stables, and all the buildings were erected by the Kellams, and the land was cleared by the Kellam negroes and stock—that is, eight hundred acres out of one thousand were so improved and cleared.

190 The expense of clearing land was usually estimated by the courts before the war at forty dollars per acre. The steam-gin and all other buildings, including ditches and fences, could not have been put on it for a less price than forty thousand dollars. These improvements were put on it during the lifetime and with the consent of Oliver J. Morgan.

The Kellams cultivated it as their own; had their own merchant, raised their own money with which to improve and plant the place, and were never called to account for rents or revenues, and never did so account for them, either to Judge Morgan or to any one else.

To X int. 6th. It was in the possession of my wife, Mrs. Melinda Kellam, as nat'l tutrix, and myself, as cotutor to the minor, Oliver

H. Kellam, at the time of the death of Oliver J. Morgan. The said plantation remained in the continuous possession of the Kellams or their representatives from the time it was originally given or set apart to them by Oliver J. Morgan until dispossessed by the receiver appointed by the court in suit No. 6612.

191 To X int. 7th. I did not, nor did any of the Kellam representatives, receive or enjoy any of the cotton crops on hand at the time of the death of Oliver J. Morgan, in 1860, or produced during that year, on Albion, Wilton, Morgana, or Westland; nor have I or any of the Kellams ever received any of the rents or revenues of the aforesaid plantation.

To X int. 8th. We have not.

To X int. 9th. We have not.

To X int. 10th. Melbourne plantation was occupied until some time in 1862. What cotton was made in 1861 was burnt by military authority. There was no cotton made on Melbourne during the year 1862. I never saw any, or had control of any; nor did any one else that I know of. The plantation was abandoned in 1862. The Kellam negroes and stock were removed to Texas, and nothing was done with Melbourne until 1867, except that I leased to H. B. Tebbetts as much as he could cultivate in 1866, and received as a rental $3,000. See my statement marked No. 2.

The houses were burned down during the war, and when Montagne was driven out the place was left to grow up in trees and bushes. It was, in 1861, a fine plantation; in 1867 it was a

192 complete wreck. The land cultivated in 1866 by Tebbetts was in wretched condition, and made no crop. I do not think the place made twenty bales of cotton in 1866; I did not attempt to cultivate it.

To X int. 11th. It was overflowed nine times in 18 years, and each time it was restored with labor and by means raised by myself. Please see my statement No. 2 which shows the debits and credits for the place each year, and which I make a part of my answer to this question.

To X int. 12th. There was a large indebtedness at the time of the death of Oliver J. Morgan existing against the Melbourne plantation for expenses incurred in clearing land, building the houses, ditching, and other improvements on the said plantation. After the war, the minor Kelham and his mother being dead, I made up an account as cotutor, presenting to the court the vouchers, and obtained a judgment against the succession of Oliver H. Kelham for $42,450.96. The Melbourne plantation had made the whole debt, which was paid by me. The vouchers for this account are now on file in the clerk's office of this parish. Please see my statement No. 1.

193 To X int. 13th. I had under cultivation other places, and shipped cotton from these places to the same factor, some of which was placed to the credit of Melbourne. An inspection of the account will not enable you to distinguish the cotton shipped from other places. I carried on my store on Melbourne during 5 years and bought and shipped cotton to the credit of Melbourne which was not

raised on Melbourne, and a considerable amount was bought from the negroes on Melbourne, of their share of the crops, and paid for in goods and cash from my store. This also went to the credit of Melbourne.

To X int. 14th. Melbourne plantation had no share in making the debts of Oliver J. Morgan. It made its own debts and paid them. I have placed to the credit of Melbourne plantation a considerable amount of money which did not come from its crop.

There is a tract of land containing 572 acres, lying in the very centre of the Melbourne plantation, to which Oliver J. Morgan had no title. After many years of delay and at a great expense I succeeded in getting the title to this property from the Government.

194 Melbourne plantation was given to Oliver H. Kellam in the woods, and at the time it was given it was the most inferior part of the whole body of land, and would be to-day but for the great number of ditches cut in it and a constant outlay of money for general drainage. It was cleared and worked by Kellam's own negroes. The buildings were all put there, in the first opening of the place, by Kellam's money. It was called the Kellams property, and was so considered by Oliver J. Morgan and everybody else. This property was wrecked during the war. It was rebuilt and stocked with labor by me from 1867 to 1870. In 1871 it was overflowed and the most of the labor driven off. In 1873 I repaired the houses I had built after the war, restored the fences and ditches, and again filled it with tenants—all at a heavy cost.

In 1874 it was again overflowed and a part of the laborers driven off and 15 head of mules were lost by disease incident to the overflow. In 1875 I repaired and stocked the place with negroes and mules. In 1876 it was overflowed and but one-half was left free from water.

195 In 1877, 1878, 1879, & 1880 I cleared the land, which was grown up in willows, levelled down the sand deposits, and dug out the ditches, which were filled to the top.

In 1881 a crevasse occurred on the immediate front of Melbourne, and all of my labour of the four preceeding years was lost; the ditches were filled, the fences washed down, and three-fourths of the labor moved away.

During the fall of that year, having but little crop to save, I went to work to build up again, and had put the place in fair condition when the general and complete overflow of 1882 came. In twelve hours after this crevasse there was not a human being or animal left on the plantation. The water remained over every foot of the cultivable land until the 15th day of August.

In 1883 three-fourths of the place was overflowed, and during 1882 and 1883 six hundred acres grew up in willows and became a dense young forest.

In 1884 & 1885 I spent a large amount of money in getting the plantation —, and now have it in a fine state of cultivation, having filled it with labor, cleared the six hundred acres which were grown up in trees, dug out the ditches, and raised and repaired the

196 houses, many of which seemed hopelessly ruined.

There has been a constant struggle to preserve this Melbourne plantation from ruin during a series of twenty years.

Had it been offered for lease in the condition it was in at the close of the war, and without improvements, no one would have more than paid the taxes for the use of it after the year 1866, as there was no houses on it and it was badly grown up in trees. It would have gradually grown worse, especially after the overflows, and to-day would be in the same condition as Westland, which is harder to clear than a native forest, and is leased this year for one bale of cotton. When the probate sale took place, in 1869, had Melbourne remained in the condition it was in at the close of the war, it would not, at a fair public sale, have brought over $5,000.00.

Westland would not then, nor would it now, bring over one dollar per acre.

Albion & Morgana might possibly have sold for $5,000 each, and Wilton, having a dwelling-house and the old cabins, might have brought $15,000.

The wild lands were worth one dollar per acre.

197 The bulk of the property of O. J. Morgan was in land that was in the woods; there was ten thousand acres woodland.

To 1st add't'l X int. I married Mrs. Melinda Kellam, the mother of Oliver H. Kellam (who was the great grandson of Oliver J. Morgan), in the year 1859 (April 7th). In 1860 a son, named John, was the fruit of this marriage. In 1861 a daughter was born, named Louisa (called Mollie in the printed record of the former suit). In September, 1863, Oliver H. Kellam died. Shortly after, his mother died, leaving John & Louisa the only children of her marriage to me. John died after, and in the same year as his mother, leaving Louisa and myself the only representative of the Kellam interest.

I married again May 19th, 1866. Etheline was born Jan'y 13th, 1872, and was eleven years old at the death of her sister, Louisa, who died March, 1883.

To 2nd additional X int. It certainly did require large expenditures of money to provide mules, houses, implements, wagons, labor, supplies for hands, and food for stock, besides ditching, fencing, and making the crop.

The expenditures were so large that in the spring of 1883,

198 after the very disastrous overflow of 1882, I came very near abandoning the property. I had about exhausted every resource for credit. The Melbourne plantation had been assisted by my other property, but at this time it was in debt and was in a wretched state.

The expenditures incurred in 1867 and after the many years of overflow can be seen by statement "No. 2," hereto attached.

O. J. Morgan did not in his lifetime, nor did his estate since, ever contribute one dollar towards developing Melbourne plantation or putting it in cultivable condition, or to the payment for buildings, fences, ditches, mules, horses, negroes in slavery, or any improvement of any kind whatever. These expenses were paid by the Kellams before the war and by me since; Melbourne had its own factor, made its own negotiations, paid its own taxes, and was gen-

erally known and regarded as a separate estate from that of O. J. Morgan.

The condition of Albion, Wilton, Morgana, and Westmoreland (except the lower part of Wilton, which has been improved by Geo. Johnson) is in about as bad condition as property well could be to be cultivated, and they have been in such condition ever
199 since the war; there is not a gin-house on any of these plantations. Westland has one small patch of land in cultivation, the rest is a wilderness; all the houses were burned during the war; it is leased this year to the old negro tenant (the only one on it) for one bale of cotton.

Morgana is not much better; the gin-house was burned during the war, and the old cabins are rotting down; it is leased this year for two bales of cotton.

Albion is in a bad condition; the gin-house and cabins were burned during the war, and it only has a few houses on it now. Wilton has a sufficient number of houses, but they are old and in bad condition, and there has been no ditching done since the war.

Since 1869, the date of the probate sale, F. M. Goodrich had possession of Morgana until he transferred it to Sam'l Boyd, of New Orleans.

Westland since the probate sale has been in the possession of the creditors of the estate of O. J. Morgan.

JOHN A. BUCKNER.

Sworn to and signed before me this 25th day of August, A. D. 1885.

200 J. M. KENNEDY,
Special Commissioner.

And I further certify that the answers of said witness were by me then and there reduced to writing in his presence and by him signed and subscribed in my presence.

Witness my hand officially this 25th day of August, A. D. 1885.

J. M. KENNEDY,
Special Commissioner.

201 *Petition of Jno. A. Buckner.*

To the honorable the judges of the 13th district court of Louisiana in and for the parish of Carroll:

The petition of John A. Buckner, residing in the parish of Carroll, with respect shows—

That on the — day of ——, 1859, he intermarried with Mrs. M. M. Kellam, widow of late Oliver H. Kellam, deceased, who represented said succession in her capacity as natural tutrix of her minor son by said marriage, *of* Oliver H. Kellam, Jr.

Petitioner show- that at the time of his said marriage said succession was lar-ely involved, being indebted to the commission merchant- of the estate, to wit, Messrs. West, Renshaw and Cammack,— the total amount of forty-three thousand six hundred and thirteen

$\frac{56}{100}$ dollars, for cash balance due 30th June, 1859, and the amount of outstanding notes negotiated by said commission merchants, in evidence of the indebtedness of said estate to them.

That on the 29th February, 1860, after selling the crop, there still remained cash balances and outstanding notes in favor of
202 said firm to the amount of twenty-one thousand five hundred and fourteen $\frac{68}{100}$ dollars; that on the 30th June, 1860, there remained due said firm cash balance and outstanding notes amounting in the aggregate to twenty-nine thousand nine hundred and fifty-five $\frac{15}{100}$ dollars.

On 29th June, 1861, there remained cash balance and outstanding notes due said firm to amount of twenty-seven thousand seven hundred and sixty-five $\frac{39}{100}$ dollars; all of which will appear by vouchers "A," "B," "C," "D," & "E," together with the notes, drafts, and accounts included therein.

Petitioner shows that the crops of each year since his marriage, up to June, 1861, *was* consigned to said merchants and the proceeds thereof applied to extinguishing the large indebtedness of the estate, as will fully appear by examining said accounts "A," "B," "C," "D," & "E."

Petitioner shows that immediately after his marriage as aforesaid, in 1869, he was appointed cotutor.

Petitioner shows that his wife, Mrs. M. M. Buckner, late widow Kellam, departed this life in 1863.

That prior to her death the minor, Oliver H. Kellam, de-
203 parted this life, and the tutorship thus ended, say on — day of ——, 1863.

That from the 30th June, 1861, the property of said estate was no longer productive, and throughout the whole period of the war and up to emancipation the negroes produced no revenues. The cotton raised by them in 1861 and 1862 was destroyed by fire under military orders, except 80 bales, which petitioner succeeded in shipping to Europe, which yielded, nett proceeds, $3,200.00

Petitioner shows that at the end of the war—say on 4th April, 1866—the estate was owing the commission merchants, Messrs. West, Renshaw and Cammack, a cash balance of twenty-nine hundred and sixty $\frac{84}{100}$ dollars, which, together with the interest and a large amount of outstanding notes due said firm, and which had been negotiated and passed off by said firm, amounted in the aggregate (including interest) to forty-five thousand six*ty* hundred and fifty $\frac{96}{100}$ dollars, as will more fully appear by ac. herewith filed and supported by vouchers attached thereto, which petitioner prays may be made part hereof.

204 Petitioner shows that he has since the war, to wit, during the year 1866, out of his own individual funds, paid off and discharged said cash balance due said commission merchants, and also paid off and discharged all the outstanding notes executed in favor of said firm prior to the war in evidence of the amount due them by said estate, which said notes they had passed off by endorsement; that the total amount he has thus paid out of his individual funds on the indebtedness of said estate amounts to forty-five thou-

sand six hundred and fifty $\frac{96}{100}$ dollars, subject to credit of said proceeds of cotton sent to Europe—say thirty-two hundred dollars—leaving the amount of forty-two thousand four hundred and fifty $\frac{96}{100}$ dollars for which said estate owes him, as will appear by the ac. herewith filed and the vouchers attached thereto.

Wherefore petitioner prays that, after legal notice and delays, the ac's herewith filed may be accepted by the court and the debts paid by him be ranked debts of the succession, and there be judgment homologating this ac., and the estate of Oliver Kellam, de-
205 ceased, may be decreed indebted to him forty-two thousand four hundred and fifty $\frac{96}{100}$ dollars for the amounts of its said indebtedness paid by petitioner in 1866 out of his individual funds, and that the items of this ac't may be deemed the judgment of this court.

Petitioner further shows that all the negroes, horses, mules, cattle, hogs, wagons, farming implements, and other movable property of said estate have been emancipated, stolen, lost, or destroyed during the war; that they have passed out of his hands by paramount authority and violence and force, and at the end of the war no active or productive property remained to the estate, and all that remained was an interest in real estate and a few notes of persons of doubtful solvency.

Petitioner further prays that he be discharged from responsibility on account of the loss of said moveable property from the unavoidable causes as aforesaid.

Prays for all necessary orders and for general relief, and that his tacit mortgage be recognized according to law.

W. G. WYLY,
Att'y for Pl'ff.

206 Upon considering the foregoing petition and annexed ac., it is ordered that legal notice be given of the filing of the same, and after the expiration of the legal delays, if no opposition be made, let said account be approved and homologated as prayed for.

Parish of Carroll, La., April 1st, 1868.

J. L. CHEATHAM,
Clerk District Court.

Notice.

John A. Buckner, representing the succession of the late Oliver H. Kellam in the capacity of cotutor of the minor, Oliver H. Kellam, Jr., said minor being also deceased, has filed an account of his acts and doings dating from the year 1862 up to the present time.

If no opposition is made thereto within thirty days, or before the first Saturday in May next, said accounts will be approved and homologated.

Parish — Carroll, La., April 1st, A. D. 1868.

J. L. CHEATHAM,
Clerk District Court.

Endorsement on said petition: Filed April 1st, 1868. J. L. Cheatham, clerk.

207 By reason of the law and evidence, and by further reason of the legal notices having been given and the expiration of the legal delays, and no opposition having been made—

It is, therefore, ordered, adjudged, and decreed that the annexed account of John A. Buckner, as cotutor of the minor, Oliver H. Kellam, Jr., be, and the same is hereby, approved and homologated; and it is further ordered that there be judgment in favor of said John A Buckner and against said tutorship for the sum of forty-two thousand four hundred and fifty $\frac{96}{100}$ dollars, with legal and tacit mortgage on all the property of said tutorship to date, from the appointment of said Buckner as cotutor of said minor.

Done and signed at the clerk's office, parish of Carroll, La., this the 2nd day of May, A. D. 1868.

J. L. CHEATHAM,
Clerk District Court.

STATE OF LOUISIANA, *Parish of East Carroll:*

I, Wm. Rous, clerk of the 8th district court in and for said parish, do hereby certify that the above and foregoing is a true and
208 correct copy of the accounts of John A. Buckner, as tutor of the minor, Oliver H. Kellam, Jr., together with his petition and orders endorsed thereon and the judgment of the homologation of the same, as taken from the original now on file and of record in my office.

Witness my hand and seal of office this 7th day of July, A. D. 1885.

[CLERK'S SEAL.]

WM. ROUS,
Clerk 8th District Court.

Endorsement on back; John A. Buckner, tutor of Oliver H. Kellam. Account. Petition and judgment. Statement No. 1. Filed August 25th, 1885. J. M. Kennedy, special commissioner.

209 *Statement No. 1.*

Estate of O. H. Kellam to Jno. A. Buckner, Dr.

April 4, 1866.

To cash paid West, Renshaw & Cammack for bal. ac. '62, as per voucher F, No. 1.						2,960 84
To cash paid on outstanding notes from West, Renshaw & Cammack & negotiated by them, viz:						
Note for	$1,188.35;	int. 5 yrs.,	$475.34			1,663 69
" "	2,000.00;	" "	800.00			2,800 00
" "	1,373.13;	" "	549.32			1,922 63
" "	4,000.00;	" "	1,600.00			5,600 00
" "	4,000.00;	" "	1,600.00			5,600 00
" "	4,000.00;	" "	1,600.00			5,600 00

Note for	$4,000.00;	int. 5 yrs.,	$1,600.00			5,600	00
"	" 4,000.00;	"	" 1,600.00			5,600	00
"	" 1,207.82;	"	" 483.12			1,690	94
"	" 496.24;	"	" 198.49			694	73
"	" 979.35;	"	" 391.74			1,371	09
"	" 420.42;	"	" 168.16			588	58

Total am't paid, cash balances & outstanding notes favor West, Renshaw, & Cammack, as per vouchers in bundle marked E No. 2, and ac. same mark $41,692 50

To cash paid Slack, Stauffer & Day 15 01
" " " United States taxes 27 14

Amount carried forward $41,734 65

210

To am't br't forward $41,734 65
" U. S. taxes 8 89
To U. S taxes 186 80
To cash paid Davenport & Lawrence 34 00
" " " Dr. Meux on ac. 137 00
" " " Jas. Syme " 44 30
These small acs. will fully appear by vouchers in bundle Z, marked No. 3.
To sundry claims paid in cash as per bundle of vouchers marked Y No. 4—the aggregate 3,031 59

Total debit $45,177 23
Interest on $2,960.84 for 5 years 473 73

Total debits $45,650 96

CR.

By net proceeds of 80 B. C. saved out of crop of 1861 and shipped to Europe 3,200 00

April 4, 1866. Balance due this day in cash $42,450 96

211

Statement No. 2, without Interest.

Melbourne plantation to John A. Buckner.

1867. Over-flowed.	To expenses of making crop, clearing land, fencing, ditching, and getting labor, taxes	7,714 90	
	To hire of ten mules, 4 wagons, plows, & gear	510 00	
	" salary superintendent	1,000 00	
	By receipt- for 1867		1,331 67
1868.	To so much of $42,450.96, am't expended from 1863 to date of % approved by the court, as per statement No. 1, as belonged to clearing and improvement of land	21,225 48	
	To expenditures in making crop, building, fencing, ditching, and getting labor, taxes	7,250 00	
	To hire of 15 mules, 5 wagons, implements, & gear	775 00	
	" salary of superintendent	1,000 00	
	By receipt from crop, 1868		2,500 00

1869.	To engine, boiler, shafting, belting, & pulleys	3,000 00	
	" cost of moving and erecting same	300 00	
	" expenditures in making crop, building, fencing, ditching, and getting labor, & taxes	7,457 03	
	" hire 25 mules, 8 wagons, gear, & implements	1,320 00	
	" salary of superintendent	1,000 00	
	By proceeds from crop, 1869		8,474 79
	Forwarded	$52,549 41	$12,306 46
212			
	Am't bro't over	$52,549 41	$12,306 46
1870.	To expenditures in making crop, building, clearing land, ditching, and getting labor, & taxes	13,239 57	
	" hire 35 head mules, 8 wagons, gear, & fencing, & implements	1,800 00	
	" superintendant, salary	1,000 00	
	By receipts for 1870		8,039 30
Overflowed.			
1870.	To expenditures making crop, building, ditching, fencing, and getting labor, & taxes	4,969 37	
	" hire 25 mules @ $40 each	1,000 00	
	" " wagons, gear, & farming utensils	280 00	
	" superintendant, salary	1,000 00	
	By receipts for 1871		3,498 91
1872.	To expenditures making crop, building, ditching, fencing, and getting labor, taxes	8,019 00	
	" hire 30 mules @ $40 each	1,200 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	By receipts for 1872		5,315 60
1873.	To expenses making crop, building, ditching, fencing, and getting labor, & taxes	8,050 98	
	" hire 36 mules @ $40 per head	1,440 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	By proceeds of crop, 1873		8,371 11
	Forwarded	$97,148 33	$37,531 38
213			
	Am't bro't over	$97,148 33	$37,531 38
Overflowed.			
1874.	To expenses making crop, building, ditching, fencing, repairs, and getting labor, & taxes	11,313 62	
	To hire 36 mules @ $40 per head	1,440 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	By proceeds crop, 1874		11,131 14
1875.	To expenses making crop, building, fencing, ditching, repairs, & getting labor, & taxes	3,456 28	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	By receipts for 1875		9,593 13
1876.	To expenses making crop, building, ditching, fencing, repairs, & getting labor, & taxes	8,805 69	
	" hire 40 mules @ $40 per head	1,600 00	
	" wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	By receipts for 1876		10,899 16
1877.	To expense- making crop, building, fencing, ditching, getting labor, taxes, & general repairs	4,224 54	
	" hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	By proceeds crop, 1877		8,290 59
	Forwarded	$136,388 46	77,445 40

214

	Am't bro't over	136,388 46	77,445 40
1878.	To expenses making crop, building, fencing, ditching, repairs, and getting labor, & taxes	3,505 90	
	" hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	By receipts for 1878		8,985 07
1879.	To expenses making crop, building, fencing, ditching, getting labor, & general repairs, & taxes	22,561 25	
	" hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	" supplies, &c., furnished hands on Melbourne pl't'n from my store, & same paid in cotton & shipped for % Melbourne pl't'n	2,000 00	
	By proceeds crop 1879		30,338 08
1880.	To expenses making crop, building, fencing, ditching, getting labor & repairs, & taxes	12,331 73	
	" hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	" supplies furnished tenants from my store, same paid in cotton & shipped for % Melbourne plant.	2,000 00	
	By receipts for 1880		17,188 17
		$187,487 34	$133,956 72

215

	Am't bro't over	187,487 34	133,956 72
Overflowed.			
1881.	To expenses making crop, building, ditching, & repairs, after overflow, & getting labor, & taxes.	15,284 78	
	To hire 40 mules @ $40 per head	1,609 00	
	" hire wagons, gear, & farming implements	300 00	
	" sup't, salary	1,000 00	
	" supplies furnished labor from my store & paid in cotton & shipped for % Melbourne pl't'n	1,500 00	
	By receipts for 1881	7,006 70	
1882. Total overflow.	To expenses starting crop, fencing, ditching, building, getting labor, & general repairs & taxes after overflow	8,652 93	
	To hire 40 mules @ $20 per head (half price)	800 00	
	" " wagons, gear, & farming implements	150 00	
	" sup't, salary	1,000 00	
	" supplies furnished labor from my store & paid in cotton following years, and cotton shipped for % Melbourne pl't'n	1,000 00	
	By receipts for 1882		161 12
1883. Overflowed.	To expenses making crop, ditching, rebuilding, fencing, & getting labor, & taxes	8,817 07	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
		$230,492 12	$141,124 54

216

	Am't bro't over	$230,492 12	$141,124 54
1883.	To supplies furnished from my store, paid in cotton & shipped for % Melbourne plantation	1,500 00	
	By receipts for 1883		9,772 79
1884. Partly overflowed.	To expense making crop, ditching, fencing, building, & getting labor, & taxes	9,370 50	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	

By receipts for 1884		12,125 39
By am't down, due J. A. Buckner		81,239 93
	$244,262 65	$244,262 65
To am't bro't down due J. A. Buckner	$81,239 93	

217 *Memorandum of Improvements made on Melbourne Plantation in way of Buildings, Fencing, Ditching, and Cost — Getting Labor, all included in Items of Expenditures from* 1867 *to* 1884, *inclusive.*

Temporary gin, 1867	300 00
To cost of building new gin-house and 14 houses to store seed cotton	2,500 00
To cost of building 55 cabins with brick chimney @ $200 each	11,000 00
To cost of building barn, stables, and fencing lot around stables	750 00
To cost of 6 new gin-stands, during 18 yrs. @ $350 each	2,100 00
To cost, fencing plantation	1,500 00
To cost of restoring fence after overflow	1,000 00
To ditching from 1867 to 1874	5,000 00
To " from 1874 to 1881	2,500 00
To ditching from 1881 to 1884	2,500 00
To cost, building storehouse, residence, and out-buildings	3,500 00
To cost, building blacksmith shop, forge, and tools	300 00
Over	32,950 00

218

Over	32,950 00
To cost of getting labor for 18 years @ $200 per year	3,600 00
To clearing 800 acres of land from 1867 to 1874, grown up during the war @ $4 per acre	3,200 00
To new boiler and cost of erecting same	700 00
To clearing 600 acres of land from 1881 to 1885, grown up in willows after overflow @ at $3 per acre	1,800 00
To cost, steam press attachment	300 00
To cleaning out bayous after overflow	450 00
To cost of building manager's house and fencing yard and garden	800 00
To cost of building house for carpenter & blacksmith to live in	750 00
To cost, 30 wells @ $15 each	450 00
To cost, church building	300 00
	$45,300 00
Taxes paid every year since 1867 included in items of expenses & am't in aggregate & for which I hold receipt	6,520 36
	$51,820 36

219 Endorsement on back of statement: Melbourne plantation in ac. with John A. Buckner, without interest. No. 2. Statement No. 2, without interest. Filed August 25th, 1885. J. M. Kennedy, special commissioner.

220 *Statement No. 2, with Interest.*

Melbourne plantation to John A. Buckner, Dr.

Overflow.			
1867.	To expenses making crop, clearing land, building, fencing, ditching, & getting labor, & taxes	7,714 90	
	" hire 10 mules @ $40 per head	400 00	
	" " wagons, gear, & farming implements	110 00	
	" superintendent, salary	1,000 00	
	" interest on $9,224.90 @ 5%	3,689 96	
	By receipts		1,331 67
	" interest on same @ 5%		1,198 50
1868.	To so much of $42,450.96, am't expended from 1863 to date of %, approved by the court, as per statement No. 1, as belonged to clearing and improvement of land	21,225 48	
	To expenses making crop, building, fencing, ditching, and getting labor, & taxes	7,250 00	
	To hire of 15 mules @ $40 per head; also wagons, gear, & farming implements	775 00	
	" salary of superintendent	1,000 00	
	" interest on $9,025.00 @ 5%	7,671 25	
	" " $21,225.48 @ 5%	18,739 20	
	By receipts for 1868		2,500 00
	" interest @ 5%		2,125 00
1869.	To engine, boiler, shafting, belting, and pulleys	3,000 00	
	" cost of removing and erecting same	300 00	
	" expenses making crop, building, fencing, ditching, and getting labor, & taxes	7,454 03	
	" hire 25 mules, 8 wagons, gear, & implements	1,320 00	
	" superintendent, salary	1,000 00	
	" interest on $13,074.02 @ 5%	10,459 21	
	Next page	$93,109 03	7,155 17
221			
	Am't bro't over	$93,109 03	7,155 17
1869.	By proceeds of crop, 1869		8,474 79
	" int. @ 5% on same		6,779 83
1870.	To expenses in making crop, building, clearing land, ditching, & getting labor, & taxes	13,239 57	
	To hire 35 mules, 8 wagons, gear, and farming implements	1,800 00	
	To sup't, salary	1,000 00	
	To interest on $6,039.57 @ 5 %	12,029 67	
	By receipts for 1870		8,039 30
	" int. on same @ 5%		6,029 47
1871. Over-	To expenditures making crop, building, ditching, fencing, and getting labor, & taxes	4,969 37	
flow.	To hire 25 mules @ $40 each per year	1,000 00	
	" " wagons, gear, & farming implements	280 00	
	" superintendent, salary	1,000 00	
	" int. on $7,249.37 @ 5%	5,424 55	
	By receipts for 1871		3,498 91
	" int. @ 5% on same		2,449 23
1872.	To expenses making crop, building, ditching, fencing, getting labor, & repairs, & taxes	8,019 00	
	To hire 30 mules @ $40 per head	1,200 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	

	Interest @ 5 % on $10,519.00	6,837 35	
	By receipts		5,315 60
	" int. on same		3,455 14
	Next page	$151,208 54	$51,197 44
222			
	To am't bro't over	151,208 54	51,197 44
1873.	To expenses making crop, building, fencing, ditching, repairs, and getting labor, & taxes	8,050 98	
	To hire 36 mules @ $40 per head	1,440 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	" interest on $10,790.98 @ 5 %	6,474 58	
	By proceeds of crop		8,371 11
	" int. on same		5,022 66
Overflow.			
1874.	To expenses making crop, building, fencing, ditching, repairs, & getting labor, & taxes	11,313 62	
	To hire 36 mules @ $40 per head	1,440 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	" int. on $14,053.62 @ 5 %	7,729 49	
	By proceeds of crop		11,131 14
	" int. on same		5,722 12
1875.	To expenses making crop, building, fencing, general repairs, & getting labor, & taxes	3,456 28	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" salary superintendent	1,000 00	
	" int. on $6,356.28 @ 5 %	3,178 14	
	By receipts for 1875		9,593 13
	" int. on same		4,796 56
	Next page	$199,791 63	$95,834 16
223			
	Am't bro't over	$199,791 63	$95,834 16
1876.	To expenses making crop, building, fencing, ditching, general repairs, & securing labor	8,805 69	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" superintendent, salary	1,000 00	
	" int. on $11,705.69	5,267 56	
	By receipts from crop		10,899 16
	" int. on same		4,904 62
1877.	To expense making crop, building, fencing, ditching, repairs, & securing labor	4,224 54	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	To superintendent, salary	1,000 00	
	" int. on $7,124.54 @ 5 %	2,849 81	
	By proceeds crop		8,290 59
	" int. on same		3,316 23
1878.	To expense making crop, building, fencing, ditching, repairs, & getting labor	3,505 90	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" sup't, salary	1,000 00	
	" int. on $6,405.90 @ 5 %	2,242 06	
	By receipts for 1878		8,985 07
	" int. on same		3,144 77
	Next page	$235,387 19	$135,374 60
224			
	Am't bro't over	$235,387 19	$135,374 60
1879.	To am't expended making crop, building, fencing, ditching, repairs, getting labor, & taxes	$25,561 25	

	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, and farming implements	300 00	
	" salary superintendent	1,000 00	
	" supplies furnished hands from my store; same paid in cotton and shipped for % Melbourne plantation	2,000 00	
	To int. on $27,461.25 @ 5%	8,238 37	
	By proceeds crop, 1879		30,338 08
	" int. on same		9,101 42
1880.	To expenses making crop, building, fencing, repairs, & getting labor, & taxes	12,331 73	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagon, gear, & farming implements	300 00	
	" sup't, salary	1,000 00	
	" supplies furnished tenants from my store and paid in cotton, same shipped per % Melbourne plantation	2,000 00	
	To int. on $17,231.73 @ 5%	4,307 93	
	By receipts, 1880		17,188 17
	" interest on same		4,297 44
	Next page	$292,626 47	$196,299 71
225			
	Am't bro't over	$292,626 47	$196,299 71
Overflow.			
1881.	To expenses making crop, building, fencing, ditching, and repairs after overflow, and securing labor, & taxes	15,284 78	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, and farming implements	300 00	
	" sup't, salary	1,000 00	
	" supplies furnished labor from my store, same paid in cotton, and shipped for % Melbourne plantation	1,500 00	
	To int. on $19,684.78 @ 5%	3,936 95	
	By receipts		7,006 70
	" int. on same		1,401 34
1882.	To expenses of picking crop, ditching, repairs,		
Total	buildings, fencing, & getting labor, & taxes	8,652 93	
over-	To hire 40 mules @ $20 per head (half price)	800 00	
flow.	" " wagons, gear, & farming implements for ½ year	150 00	
	" sup't, salary	1,000 00	
	" supplies furnished labor from my store, since paid in cotton, and shipped for % Melbourne plantation	1,000 00	
	To int. on $11,602.93 @ 5%	1,740 43	
	By receipts		161 12
	" int. on same	24 16	
1883.	To expenses making crop, ditching, rebuilding, fencing, & getting labor, & taxes	8,817 07	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & farming implements	300 00	
	" salary superintendent	1,000 00	
	Next page	$341,308 63	$204,893 03
226			
	Am't bro't over	$341,308 63	$204,893 03
Overflow.			
1883.	To supplies furnished labor from my store, same paid in cotton & shipped for % Melbourne plantation	1,500 00	
	To int. on $13,217.07 @ 5%	1,321 70	
	By receipts		9,772 79
	" int. on same		977 27

1884. Partly overflowed.	To expenses making crop, ditching, fencing, building, repairs, & getting labor, & taxes	9,370 53	
	To hire 40 mules @ $40 per head	1,600 00	
	" " wagons, gear, & implements	300 00	
	" salary superintendent	1,000 00	
	" int. on $12,270.53 @ 5%	613 52	
	By receipts		12,125 39
	" int. on same		606 26
	By balance due J. A. Buckner		128,639 64
		$357,014 38	$357,014 38
	To am't bro't down, due J. A. Buckner	$128,639 64	

Endorsement on back of statement: Melbourne plantation in ac. with John A. Buckner, with interest 5 %. No. 2. Statement No. 2, with interest. Filed August 25, 1885. J. M. Kennedy, special commissioner.

227 *Depositions of Matt. F. Johnson, Narcissa K. Johnson, His Wife, George G. Johnson, and Julia H. Johnson, His Wife. Filed Aug. 17th, 1885.*

Interrogatories.

United States Circuit Court, Eastern District of Louisiana. In Equity.

JOHN A. BUCKNER *et al.*
vs.
STEVENSON WATERS, Adm'r of Estate of Wm. Gay.

NARCISSA KEENE, Wife, *et als.*
vs.
SAME.

Nos. 10633 & 10634 Consolidated.

Interrogatories to be propounded to Matthew F. Johnson and Mrs. Narcissa K. Johnson, his wife, and to George G. Johnson & Mrs. Julia H. Johnson, his wife, all residing in the county of Washington, in the State of Mississippi, and whose answers thereto will be offered in evidence in behalf of the defendant, Stevenson Waters, administrator, on the final hearing of these causes.

228 First. Are you the parties complainant in the cause No. 10634, entitled Narcissa Keene, wife, *et als. vs.* Stevenson Waters, adm'r of Wm. Gay, deceased, one of the causes consolidated herein?

Second. What was the date of the death of the late Oliver J. Morgan, of Carroll parish, La.? What was the date of the death of the late Julia Morgan, his daughter, and what the date of the death of the late Oliver T. Morgan, the husband of said Julia Morgan?

Third. When Oliver J. Morgan died who took possession of the five plantations known as Albion, Wilton, Melbourne, Morgana, and Westland plantations, in what is now called East Carroll parish, the same plantations decreed to be sold as the property of the succession

of Oliver J. Morgan in cause 6612 in this court, referred to in your bill of complaint? State the possession of each one of said plantations. When did such possession begin? When did it end, and how?

Fourth. Did not such possession continue in the heirs of Oliver J. Morgan and their heirs and representatives until the receiver
229 of this court took possession thereon, in the fall of 1884?

Fifth. Who took possession of the mules, horses, oxen, and other horned cattle, sheep, hogs, wagons, farming utensils, corn in cribs, household and kitchen furniture, silver-ware, and other movables on each of said plantations on the death of said Oliver J. Morgan?

Sixth. State in detail which of said plantations and what of said movables you and each of you (& whether jointly or severally) took or had such possession of.

Seventh. Was there any judgment of court recognizing any one or more persons as heir or heirs of said Oliver J. Morgan and ordering him or them to be put in possession of his property of his succession?

Eighth. When in possession of the said property how did the heirs of said Oliver J. Morgan and their heirs act toward said plantations? Did they not plant and cultivate the same, direct, manage, and control the same, gather the crops, sell the crops or parts thereof, and appropriate the crops or their proceeds to their own use, or did they account for and pay over or deliver the same to the executor,
230 Oliver T. Morgan, and his successor, Matthew F. Johnson, the dative testamentary executor of Oliver T. Morgan, and the executor or administrator of Julia Morgan?

Ninth. You will now please state the number of bales of cotton grown on each one of said five plantations in each year from the year 1860 to the year 1884, both inclusive. Answer separately for each year and separately for each plantation. If you cannot answer for all the plantations answer for those you can. If you cannot answer for all the years answer for those you can. If you cannot answer precisely and accurately answer approximately and from recollection. If you can get from your merchant or other persons the account sales of any of said crops or parts thereof for any or all of said years attach them to your answers.

Tenth. State which of said crops and how much of said cotton was received by Mrs. Julia Morgan or her husband in her lifetime, and which said crops and how many bales of cotton were received by you or any of you (and which of you), either before or after Mrs. Julia Morgan's death.

Eleventh. State the names and places of business of the
231 cotton factors who have disposed of your cotton crops from 1860 to 1884, inclusive, and state particularly which of them had charge of the sales of the crops grown by you or any of you or Mrs. Julia Morgan on any of said five plantations.

Twelfth. Did you not derive great benefit from crops of corn and other produce grown on said plantations?

Thirteenth. State in detail what rental (from rents of any part of

said plantations), either in money or in produce, you and each of you have received in each of said years. Answer separately for each year down to and including 1884.

Fourteenth. You will have perceived that one of the objects of this examination is to ascertain what pecuniary benefits you or any of you have received from said plantations. You will please give any further information on the subject, within your knowledge, tending toward this object as fully and in detail as if the facts were known to us and you were specially interrogated thereto.

Fifteenth. Did you or some of you not have actual knowledge that in 1868, or about that time, that proceedings were
232 instituted, through forms of law, by Jno. A. Buckner and Oliver T. Morgan, as executor of Oliver J. Morgan, and as executor of Mrs. Julia Morgan, his wife, to have said five plantations sold to satisfy an alleged mortgage claim of what is known as the Kelham or Buckner interest, and that a sale did take place, and that Jno. A. Buckner bid in at said sale the Albion, Wilton, and Melbourne plantations and retained the Melbourne, but allowed you to remain in possession of and as owners of the Albion and Wilton places?

Sixteenth. Did not Oliver J. Morgan have and retain the continuous corporeal possession of Wilton, Albion, and Morgana plantations up to the time of his death, and was not the possession of Melbourne and Westland the same?

Seventeenth. State what you know of a claim of Oliver J. Morgan's succession against the United States Government? Did not Matthew F. Johnson, as executor of Oliver J. Morgan, receive from the Government $21,870.68, or about that amount, in 1874? What did Matthew F. Johnson do with this money? Did he ever
233 pay any of it over to the Buckner or Kelham interest, or was it not devided between Matthew F. Johnson and wife and George G. Johnson & wife?

We ask Mr. M. F. Johnson to state in detail how he used this money or what he did with it.

(Signed) W. F. & D. C. MELLEN,
Sol'rs for Stevenson Waters, Adm'r.

Consent is hereby given that a commission issue directed to Charles H. Starling, of Washington county, Mississippi, to be named special commissioner in the commission to be issued by the clerk, or to any judge, notary public, or other person authorized to administer oaths in said county, to take the deposition of the witnesses above-named in answer to the foregoing direct and the following cross interrogatories, motion, affidavit, & order being waived, all objections being reserved to the relevancy of testimony.

July 8, 1885.

(Signed) T. J. SEMMES & PAYNE,
Sol's for Compl'ts.

Additional Direct Interrogatories.

Eighteenth. Did not the heirs of Oliver J. Morgan recog-
234 nize Oliver T. Morgan as executor of Oliver J. Morgan, and as executor of Mrs. Julia Morgan? Did he, in such capacities, require from you or any of you any accounts for rents, revenues, or property of such successions?

Nineteenth. What relationship existed between you and Oliver T. Morgan?

Twentieth. Did not Oliver T. Morgan, as executor of Oliver J. Morgan, take possession and control of the five plantations, or some of them, for some time after the war? If yea, which plantations, and how long did he retain control of them?

Twenty-first. Did not Julia Morgan in her lifetime and you, as her heir, since her death, always claim three-fourths of the Morgan succession property as her and your own and refuse to concede more than one-fourth to the Kelham or Buckner interest?

[On margin:] Same consent to the additional as to the original direct interrogatories.

(Signed) T. J. SEMMES & PAYNE,
Sol's for Compl'ts.

Twenty-second. Did not you and each of you — of the pendency of proceedings which led to the sale of all five plantations in 1869, *in* which Oliver T. Morgan bought when the property — sold as the property of the succession of O. J. Morgan & Julia Morgan,
235 on the pretence of paying debts? Did you not know of said sale? Did you oppose said sale? Did — ever take any steps to annul said sale?

Twenty-third. Did you and each of you know that said sale was in contemplation, in order that the best of said lands (the Albion, Wilton, and Melbourne plantations) might be saved to the heirs—the Albion & Wilton to you & the Melbourne to the Buckner and Kelham interest—or did you not learn this after the sale had taken place?

(Signed) W. F. & D. C. MELLEN,
Sol'rs for Waters, Adm'r.

United States Circuit Court, Eastern District of Louisiana. In Equity.

JOHN A. BUCKNER *et al.*
vs.
STEVENSON WATERS, Adm'r of Estate of Wm. Gay.

NARCISSA KEENE, Wife, &c.,
vs.
SAME.

Nos. 10633 & 10634 Consolidated.

236 Cross-interrogatories propounded by complainants in the above-entitled causes to Narcissa Keene, wife of Matt. F. Johnson, & Julia H. Morgan, wife of George G. Johnson:

1. When did your mother, Julia Morgan, die? When did her first husband, Keene, die? When did her second husband, Oliver T. Morgan, die? How old were each of you at the time of your mother's death? When did each of you marry your respective husbands?

2. Did Oliver T. Morgan, as executor, ever account to you [or] to either of you, as heirs of your grandfather, Oliver J. Morgan, for any of the effects or revenues of your grandfather's estate. If yea, when and to what extent?

3. Did you or either of you ever authorize Oliver T. Morgan, as executor of your said grandfather, or as executor of Julia Morgan, to make application to the probate court of Carroll parish to sell the plantations known as Albion, Wilton, Morgana, and Westland to pay the debts of your said grandfather, and especially an al-edged debt due to the heirs of Oliver H. Kelham and pretended to be secured by mortgage on said plantations?

237 4. Did you or either of you ever authorize said plantations to be inventoried after the death of your grandfather, O. J. Morgan, as belonging to his succession?

5. When did you first become acquainted with the fact that said plantations had been inventoried in the succession of your said grandfather and sold under order of the probate court of the parish of Carroll to pay his debts?

6. After the death of Julia Morgan, who had possession of and cultivated said plantations? Be specific as to each plantation—Albion, Wilton, Morgana, Westland.

If you say that you or either of you had possession of said plantations, or any or either of them, give as near an account as you can of the revenues, if any, derived by you, or either of you, from the same, after deducting from the same expenses incurred, money expended for improvements, buildings, ditches, fences, &c., and a reasonable sum per annum for superintendance, the object being to ascertain whether or not you have derived any pecuniary advantage therefrom since the death of Julia Morgan, your mother. If any overflows have occurred, state in what years and the effect
238 thereof on the said plantations and their productions.

7. Did Matt. F. Johnson, as executor of your grandfather, pay you, or either of you, any money on account of a claim against the U. S. Government, which, it is said, was collected by him?

8. State any other fact or circumstance you may know material to this case.

(Signed) T. J. SEMMES & PAYNE,
Sol-. for Compl'ts.

Cross-Interrogatories to be Propounded to Mat. F. Johnson & George G. Johnson.

1. When Oliver H. Morgan died what became of the crops which, it is said, *was* produced that year on his plantations?

2. After his death, who cultivated Albion, Wilton, Morgana, & Westland during the war?

3. What was the condition of said plantations, Albion, Wilton, Morgana, and Westland, at the end of the war?

4. What has been the condition each year of said plantations since 1867?

5. What revenues, if any, did Julia Morgan derive from said plantations during her lifetime and after the death of her
239 father, after payment of necessary expenses of production?

6. At whose expense were said plantations put in order (if put in order at all) after the war?

7. What advantage or pecuniary profit did Julia Morgan derive from said plantations, Albion, Wilton, Morgana, & Westland, after the death of her father?

8. Has your wife been in possession of any of said plantations since the probate sale of 1869? If yea, which plantation?

9. Since then what profit or advantage has your wife derived from said possession? What is the condition of Albion, Wilton, and Westland now, and what has it been since 1868, and what revenues or crops have been made from 1868 to 1884 on Albion & Wilton, and what expenditures have been incurred in cultivation, repairs, fencing, ditching, buildings, &c.?

10. State any other facts you may know respecting the matters involved in this suit which may have any bearing on the issue involved.

(Signed) T. J. SEMMES & PAYNE,
Sols. for Compl'ts.

240 *Depositions.*

United States Circuit Court, Eastern District of Louisiana. In Equity.

JOHN A. BUCKNER *et al.*
v.
STEVENSON WATERS, Administrator of the Estate of Wm. Gay,
and
NARCISSA KEENE, Wife, etc., *et als.*
vs.
SAME.

Nos. 10633 and 10634 Consolidated.

Depositions of Matt. F. Johnson, Mrs. Narcissa K. Johnson, his wife; George G. Johnson and Mrs. Julia H. Johnson, his wife, all of Washington county, Mississippi, taken before me, C. H. Starling, at my office, in Greenville, Washington county, Mississippi, on the 13 and 14 days of August, 1885, in pursuance of the commission annexed, issued out of the circuit court of the United States for the 5th judicial circuit, holding sessions in and for the eastern district of Louisiana, upon the direct and cross in-
241 terrogatories hereto appended and to be read in evidence on the part of Stevenson Waters, administrator, &c., defendant in the above-styled causes, now pending on the equity side of said court.

Mrs. NARCISSA K. JOHNSON, wife of Matt. F. Johnson, having been first duly sworn, answers to the first direct interrogatory as follows:

I am one of the parties complainant in the cause No. 10634.

And to the second direct interrogatory she answers: Oliver J. Morgan died in October, 1860; I think, the 24th October. Julia Morgan, my mother, died on the 1st May, 1860, nearly six months before the death of her father, Oliver J. Morgan. Oliver T. Morgan died 19th August, 1873.

To the third direct interrogatory she answers: Oliver T. Morgan, as executor of the will of Oliver J. Morgan, took possession of Albion, Wilton, and Morgana. He already had possession of Westland, under some agreement with Oliver J. Morgan that he could clear it up and cultivate it; exactly what the agreement was I do not know. Mrs. Buckner, who was formerly Mrs. Nellie M.
242 Kelham, but then wife of John A. Buckner, had possession of the Melbourne plantation at her grandfather's death. Melbourne had been turned over to her by Oliver J. Morgan, as her son's portion, prior to former's death. Oliver T. Morgan continued in possession of Albion, Wilton, Morgana, and Westland, as executor of Oliver J. Morgan, until his death, in 1873. Melbourne plantation, so far as I know, has been constantly [in the possession] of Mrs. Buckner, and since her death [in the possession] of her husband, John A. Buckner, down to 1884.

To the fourth direct interrogatory she answers: I think my husband, Matt. F. Johnson, had possession of the Albion, Wilton, Mor-

gana, and Westland plantations, as the dative executor of Oliver J. Morgan after the death of Oliver T. Morgan, in 1873, until 1884. As one of the heirs, I know that they did not have possession of the property.

To the fifth direct interrogatory she answers: Oliver T. Morgan, as executor, took possession, I think, of the mules, stock, & farming utensils on the Albion, Wilton, and Morgana plantations. The stock and utensils on Westland belonged to him, I believe, and the stock and utensils on Melbourne belonged to Mrs. Buckner or her
243 husband. Oliver J. Morgan owned no furniture or silver-ware. He and his daughter, Mrs. Julia Morgan, lived together, and the silver-ware and furniture were her private property. The furniture was destroyed by soldiers during the war. The silver-ware, which had been given to my mother, Mrs. Julia Morgan, by her husband, A. C. Keene, is still in possession of my sister, Mrs. Julia H. Johnson, and myself.

To the sixth direct interrogatory she answers: None of the heirs had possession of any of the land or property, except that, as stated above, Melbourne was held in the right of the Kelham heir.

To the seventh direct interrogatory she answers: I do not know of any such judgment of any court.

To the eighth direct interrogatory she answers: As stated above, the heirs, so far as I know and speaking for myself, never had possession of any of the plantations, except Melbourne, held as above for the Kelham heir. I have never had any portion of the crops nor received any of the revenues of these plantations, and have had no account with Oliver T. Morgan, executor, or his successor, Matt. F. Johnson.

To the ninth direct interrogatory she answers: I lived in a different State during this time, and know absolutely nothing as
244 to the crops made during these years.

To the tenth direct interrogatory she answers: My mother, Mrs. Julia Morgan, died before my grandfather, Oliver J. Morgan, and, of course, received none of the crops. For myself, I received no portion of any of the crops after Oliver J. Morgan's death, nor, so far as I know, did any of the heirs.

And to the eleventh direct interrogatory she answers: I have never received a bale of cotton from any of the five plantations nor [shipped] any to any commission merchant, nor do I know of any merchant to whom the cotton raised on these places was shipped.

To the twelfth direct interrogatory she answers: I did not derive any benefit from any of such crops.

To the thirteenth direct interrogatory she answers: I have received no rentals at all from any of these plantations.

To the fourteenth direct interrogatory she answers: For myself, I can answer that I have received nothing at all from said plantations.

To the fifteenth direct interrogatory she answers: I knew that some proceedings were being taken for the settlement of the
245 estate of my grandfather, but what they were I did not know, nor did I take possession of any of the property.

To the sixteenth direct interrogatory she answers: Oliver J. Mor-

gan had possession, as I believe, of Wilton, Albion, and Morgana at time of his death, but Melbourne was set apart by my grandfather to the Kelham heir prior to his death, and it was in the possession of the representatives of [the] Kelham heir. As I have stated, Westland plantation was in possession of Oliver T. Morgan, who was clearing it up under some contract with my grandfather.

To the seventeenth direct interrogatory she answers: I know there was a claim against the Government of the United States on the part of my grandfather's estate, and that my husband, Matt. F. Johnson, as executor, received some money therefrom, but how much or what he did with it I do not know. I have always understood that a part of this claim belonged to the estate of my father, A. C. Keene. I personally did not receive any part of it.

To the eighteenth direct interrogatory she answers: I know that
Oliver T. Morgan had charge of my grandfather's property
246 as executor, and was so recognized by the heirs. I do not
know whether he was executor of my mother, Mrs. Julia Morgan. He never required any accounts from me, as I never had possession of any of the property.

To the nineteenth direct interrogatory she answers: Oliver T. Morgan was my stepfather, my mother's husband.

To the twentieth direct interrogatory she answers: Oliver T. Morgan retained possession of Wilton & Albion plantations until his death, in 1873. I stated, in my answer to interrogatory No. 3, that he also retained possession of Morgana & Westland until his death, but this is incorrect. I recollect that Morgana & Westland were turned over to the lawyers about 1869.

To the twenty-first interrogatory she answers: My mother died before my grandfather, and I do not know what she claimed, but we, her heirs, always understood that three-fourth- of the property belonged to us.

To the twenty-second interrogatory she answers: I knew that there were certain proceedings on foot, as I thought, for a division of the property. I have never attempted to annul said sale.

To the twenty-third direct interrogatory she answers: I
247 knew that as the result of those proceedings that the Albion
& Wilton plantations were to be set apart to the heirs of Mrs. Julia Morgan. Melbourne plantation to the Kelham interest, and Westland and Morgana to the creditors, but this was not carried out in fact.

And to the cross-interrogatories propounded to her and Mrs. Julia H. Johnson she answers as follows:

To the first cross-interrogatory she answers: My mother, Mrs. Julia Morgan, died the 1st of May, 1860. Her husband, A. C. Keene, died 3d August, 1855. Oliver T. Morgan died the 19th August, 1873. I was thirteen at the time of my mother's death, my sister, Julia H., not quite 2 years. I was married the 27 December, 1860. My sister, Julia H. Morgan, was married 1st Jan'y, 1878.

To the second cross-interrogatory she answers: Oliver T. Morgan, as executor of my grandfather's estate, never accounted to us—at

least not to me—as such executor for any effects or revenues of my grandfather coming to his hands.

To the third cross-interrogatory she answers: I certainly never gave Oliver T. Morgan, as executor of my grandfather, any such authority, nor as executor of my mother, Julia Morgan.

248 To the fourth cross-interrogatory she answers: I never gave any such authority.

To the fifth cross-interrogatory she answers: I never did know it, certainly. I supposed that there was a friendly division to be made.

To the sixth cross-interrogatory she answers: My grandfather was living when my mother, Julia Morgan, died, and he had possession of his own property. Since his death I have never had possession of any of the plantations or property, nor have I received any of the crops, revenues, or profits coming from the same.

To the seventh cross-interrogatory she answers: He never did pay me anything on such account.

To the eighth cross-interrogatory she answers: I know nothing further material to this case.

(Signed) NARCISSA K. JOHNSON.

MATT. F. JOHNSON, having been first duly sworn, answers to the first direct interrogatory as follows: I am the husband of

249 Narcissa K. Johnson, on- of the complainants.

To the second direct interrogatory he answers: Oliver J. Morgan died 24 October, 1860; his daughter, Mrs. Julia Morgan, died 1st May, 1860. Oliver T. Morgan, the second husband of Julia Morgan, died 19 August, 1873.

To the third direct interrogatory he answers: When Oliver J. Morgan died Oliver T. Morgan, as testamentary executor under his will, took possession of Albion, Wilton, Morgana, and Westland plantations. Mrs. Jno. A. Buckner had already possession of Melbourne plantation as representative of — Kelham interest. Oliver T. Morgan's possession of Albion, Wilton, and Morgana plantations began with death of Oliver J. Morgan. He was already in possession of Westland under some contract to clear it up. Melbourne had been set apart to the Kelham interest before Oliver J. Morgan's death. Albion & Wilton remained in possession of Oliver T. Morgan until his death, in 1873. Morgana and Westland remained in his possession until 1869, when the sale of the property took place.

To the fourth direct interrogatory he answers: The heirs of Oliver J. Morgan have never had possession of any of these planta-

250 tions, except Melbourne, set apart, as above, to the Kelham interest. As agent of Oliver T. Morgan, executor, under his power of attorney, I was in possession of Albion & Wilton plantations from 1862 to the time of his death, in 1873, and of Morgana & Westland until the sale, in 1869. After the death of Oliver T. Morgan I qualified as dative executor of Oliver J. Morgan, not of Oliver T. Morgan, and as such executor I retained possession of Wilton & Albion plantations until the receiver took charge, in 1884.

To the fifth direct interrogatory he answers: Oliver T. Morgan,

as executor, at the death of Oliver J. Morgan, took possession — mules, stock, & personalty belonging to Oliver J. Morgan.

To the sixth direct interrogatory he answers: There was no division made of the estate of Oliver J. Morgan, but all remained in the hands of his executor, Oliver T. Morgan, until the United States Government took possession of all the personalty, in the fall of 1861 or 1862—I think the latter date.

To the seventh direct interrogatory he answers: I do not know of any such judgment.

To the eighth direct interrogatory he answers: The heirs never were in possession of any of the property except Melbourne,
251 held by Kelham heirs, nor did they plant or cultivate the same; and hence they had no reason, nor did they account to the executors for any crops or profits.

To the ninth direct interrogatory he answers: Oliver J. Morgan died in October, 1860. The crop of that year was shipped to Pilcher & Goodrich, commission merchants, at New Orleans, and their account current showed that the crop did not pay them his indebtedness of that year. In 1861 the cotton was picked but never shipped. It was burned by the Confederate army. The crop of 1862 was made but never picked. In 1863 the U. S. Government took possession of the places and leased them to different parties as contrabands, and in 1864 — still in possession — U. S. Government. In 1865 the plantations were not cultivated at all. In 1866 H. B. Tibbett & Co. rented Albion & Wilton plantations at $20,000. They broke and paid no portion of the rent, and ran off their stock and mules, so that nothing was recovered of them; this year Morgana & Westland were not cultivated. In 1867 the estate worked the Wilton & Albion places in partnership with Col. Sam'l T.
252 Chambliss; lost $12,000, which I, Matt. F. Johnson, paid individually to Harlow J. Phelps & Co. and Given Watts & Co., of New Orleans. Col. Chambliss ran off his mules to Texas, and refused to pay his portion of the loss. The rest of the plantations, viz., Westland & Morgana, have never been cultivated since the war. They are overgrown and covered with timber. In 1868 the country was considered ruined, and no arrangements could be effected to get money to run the plantations that year. They accordingly were not cultivated that year. In 1869 the estate employed Henry Goodrich to cultivate Albion & Wilton as agent. He was employed in the same capacity in the years 1870, 1871, 1872, and part of 1873, at which time he rendered me his final account, by which it appeared that the estate owed him a balance of $7,709.22, and there was owing to Jno. Chaffe & Bro., of New Orleans, for money and supplies advanced during the same years, about $5,800. Goodrich's final account above referred to is hereto attached and made part of this deposition, marked Exhibit "A." I will further state, during these years, from 1869 to 1873,
253 the estate was worked at a dead loss of over $13,500, and I personally am further out of pocket on the working of the estate in those years nearly $10,000, loaned to the estate by me in 1869 to enable — to buy stock for the places. This loan was in the form

of a letter from Julian Johnson & Co., of New Orleans, to Henry Goodrich, directing him to draw on them for ten thousand dollars on my account, thereto authorized by me. Of this sum I have never recovered from the estate but $2,000, paid through Jno. Chaffe & Bro. The above balance due Jno. Chaffe & Bros. has since been paid by the estate, but the amount due Henry Goodrich has never been paid, under an agreement that if the plantations did not make money he was not to receive salary, his consideration being the large salary to be paid in favorable years. In 1873 C. M. Tilford was employed as agent to cultivate the estate at $2,500 per year. He served in the same capacity in the years 1874, 1875, 1876, at the same terms. During these years the estate got out of debt, and paid off the balance due John Chaffe & Bro., viz., about
254 $5,800. This sum was paid Chaffe & Bro. through Johnson & Goodrich, of New Orleans. During this period nothing was paid in the shape of profit to the heirs or myself. In 1877 I employed J. W. Erwin as agent for the estate. When Tilford left the place he carried most of the hands with him, so that Wilton & Albion were nearly deserted, and during that year, and 1878, 1879, 1880, Wilton and Albion made no money.

From 1880 to 1884 I rented the Albion and Wilton places to J. Stein & Co. for $2,000, out of which were paid taxes, and allowed them to put up fences and improvements, after which I received about $500 balance per year, with the exception of one year of their term, when I received $1,000. On the whole, these places have never paid me anything, and are behind to me personally nearly $20,000. I have no means of approximating the number of bales of cotton made any year, as the lands were rented for either money or lint cotton. After overflows, which were many and often in consecutive years, but which I have no means to locate, I have had no returns from these places in the shape of profits.

255 To the tenth direct interrogatory he answers: Mrs. Julia Morgan died before her father, and none of her heirs have received any cotton from said plantations.

To the eleventh direct interrogatory he answers: Jno. Chaffe & Bro., of New Orleans; Johnson & Goodrich, New Orleans; Prestidge, Graham & Co., N. O.; Graham, Black & Co., N. O.; Jurey & Gillis, N. O.

To the twelfth direct interrogatory he answers: The estate is indebted to me from $10,000 to $20,000, which is the only benefit I have from it.

To the thirteenth direct interrogatory he answers: I have stated all I can under answer to interrogatory nine. I have never received personally any rent or profit from the estate.

To the fourteenth direct interrogatory he answers: I can give you no further information.

To the fifteenth direct interrogatory he answers: I had knowledge of the proceedings instituted by John A. Buckner and Oliver T. Morgan, executor, to have the five plantations sold to satisfy the debts of O. J. Morgan. I was notified by the attorneys of the estate

that this was a fair settlement, and that the creditors would
256 agree to it. Not knowing any of the latter or the amount owed by the estate, I was assured it was a fair settlement; nor did I know that the creditors were dissatisfied until legal proceedings — instituted by Gay. I knew there was a sale, and that, by agreement with John A. Buckner, Olive T. Morgan, executor, was permitted to retain possession of Wilton & Albion as a proper and fair division of the property.

To the sixteenth direct interrogatory he answers: Yes, he did; but Melbourne was already in possession, before Oliver J. Morgan's death, of the Kelham heirs, and Westland of Oliver T. Morgan.

To the seventeenth direct interrogatory he answers: Yes; I received about that amount from this claim. I used portions of this amount to reimburse me for the losses I had sustained on the property and for my services from 1860 to 1874, as agent of the estate and executor, and in my settlement with George G. Johnson I settled with him for any remaining amount of the portion coming
257 to his wife, Julia H. Johnson, that was estimated to be in my hands of this amount, for which I hold the receipt of Julia H. & George G. Johnson, dated June 4, 1879. I have no data to state the exact amount, but my recollection is that it was concluded between us that I had not received any more than was justly due me by the estate.

To the eighteenth direct interrogatory he answers: Oliver T. Morgan was recognized by the heirs as executor of Oliver J. Morgan and Mrs. Julia Morgan. I was not — heir of Oliver J. Morgan, but as agent of Oliver T. Morgan, executor, I accounted to him for my dealings with the property.

To the nineteenth direct interrogatory he answers: None except by marriage; he was my wife's stepfather.

To the twentieth direct interrogatory he answers: Yes; he took possession of Wilton, Albion, Morgana, and Westland; the first two he held possession of till his death, in 1873. Morgana & Westland passed from his possession after the sale, in 1869.

To the twenty-first direct interrogatory he answers: Mrs. Morgan died before her father; her heirs claimed three-fourths of the property as against the Kelham interests—one-fourth.

258 To the twenty-second interrogatory he answers: I knew of such sale and did not take any steps to annul it.

To the twenty-third interrogatory he answers: I knew that if the arrangement was carried out my wife and her sister would get Albion & Wilton, Kelham interest Melbourne, and the creditors Morgana & Westland. I understood the creditors were satisfied, and I thought it a fair settlement.

And to the cross-interrogatories propounded to him and George G. Johnson he answers as follows:

To the first cross-interrogatory he answers: Supposing you to mean Oliver J. Morgan, I was not on the place at the time, but understood it was shipped to his merchants in New Orleans, partly before his death, partly afterwards, to pay his debt to them. Pilcher & Goodrich were the merchants.

To the second cross-interrogatory he answers: Oliver T. Morgan, executor, in 1861 and 1862; but they were destroyed by the Confederate and Federal forces. In 1863, 1864, & 1865 no one cultivated them.

To the third cross-interrogatory he answers: They were a barren waste; no houses, fences, or ditches, except on the Wilton,
259 where a few houses were left standing.

To the fourth cross-interrogatory he answers: Morgana and Westland are entirely grown up and have not been cultivated since the war, and not much better than a virgin forest. Wilton and Albion have been partly cultivated every year since 1867.

To the fifth cross-interrogatory he answers: Julia Morgan died before her father, and never received any revenue from the property.

To the sixth cross-interrogatory he answers: They were put in order at my own personal expense, by my lending the estate $10,000 cash of my own money and borrowing for the estate $20,000 of Jno. Chaffe & Bro., of New Orleans.

To the seventh cross-interrogatory he answers: Julia Morgan died before her father, and consequently received no revenue from these places.

To the eighth cross-interrogatory he answers: My wife has never been in possession of any of Judge Morgan's estate, meaning thereby that she has never been in possession of any of said plantations since her grandfather's death.

To the ninth cross-interrogatory he answers: My wife has
260 never been in possession of any of said plantations and has never received any profit or revenue from the property or from any one in possession of the property. Albion and Wilton are in very poor condition, but are partially cultivated. Westland and Morgana are little better than a forest. Wilton and Albion were put in fine condition in 1869 and 1870, but since that time, by the frequent overflows and disastrous years, the improvements have been allowed to go to decay. From 1868 to 1884 Wilton & Albion have been partially, sometimes fully, cultivated, but the expenses have been largely in excess of the revenues, as more fully shown in previous answers.

To the tenth cross-interrogatory he answers: I know of no other material facts that I can recall now.

(Signed) MATT. F. JOHNSON.

The further hearing of these depositions is adjourned until tomorrow morning, August 14, 1885, at 10 a. m., at the same place, of which the witnesses, George G. Johnson and Mrs. Julia H. Johnson, his wife, have been first notified.

Witness my hand and seal this 13 August, 1885.

(Signed) C. H. STARLING, [SEAL.]
Special Commissioner.

261 *Exhibit "A" to Matt. F. Johnson's Deposition.*

Wilton Plantation to H. Goodrich, ag't, Dr.

1873.				
Apr'l 23.	To service as ag't, 1872		4,000 00	
	" cash and supplies to hands, 1872		3,666 55	
	" balance cash in my favor		46 25	
May 29.	" paid T. B. Rhodes for ac. W. Roy, say		10 14	
	" error in cash ac.		54 75	
				$7,777 69
	" 12 months' in'st at 8 pr. ct.			621 21
				$8,399 90

CREDIT.

1873.			
May 13.	By am't Daniel Bledsoe	10 00	
	" error L. Thompson ac.	16 00	
	" am't A. Bradford	8 87	
	" " W. Jackson	9 97	
1874.			
Feb'y 15.	" 1 cooking stove	18 50	
	" am't — J. Haynes	5 00	
	" " R. Reiy for L. Douglass	152 60	
	" " Jas. Lewis	47 95	
	" " All. Bradford	71 35	
	" " Alf. Green	6 50	
	" " Lin. Williams	140 72	
	" " Mills Hays	100 00	
	" " Jane Mason	1 00	
	" " John Green	102 22	
			690 68
	To am't due, with interest		$7,709 22

Endorsed: 1873. Wilton plantation in ac. with H. Goodrich, agent.

262 Pursuant to adjournment, the further hearing of these depositions was continued this morning, August 14, 1885, at 10 a. m.

Mrs. JULIA H. JOHNSON, wife of George G. Johnson, being called and first duly sworn, answers to the first direct interrogatory as follows:

I am one of the parties complainant.

To the second direct interrogatory she answers: I do not know acurately. He was my grandfather, but I was very young when he died. My mother, Julia Morgan, died, I believe, in 1860. I was not two years old at the time of his death. Oliver T. Morgan, her husband and my father, died 19 August, 1873.

To the third direct interrogatory she answers: I do not know who took possession of the places. As I have said already, I was very young when my mother and grandmother died, and, of course, knew nothing that was going on at that time.

To the fourth direct interrogatory she answers: I myself, as one of the heirs, have not had possession of any of the property until the fall of 1879. At that time what was supposed to be one-third
263 of the Wilton and Albion plantations was turned over to me

and my husband. We remained in possession of this portion until the receiver took possession, in 1884.

To the fifth direct interrogatory she answers: I do not know who took possession of stock, cattle, tools, &c., on the property at death of Oliver J. Morgan. A small portion of furniture and silver-ware, worth probably $250, is in my hands as part of the family possession. I have always understood, however, that these had belonged to my mother.

To the seventh direct interrogatory she answers: I know of no such judgment.

To the eighth direct interrogatory she answers: I can only answer for myself. As I have said before, I had possession of $\frac{1}{3}$ of Wilton & Albion plantations from the fall of 1879 till the receiver took charge, in 1884. During that time my husband and I cultivated or rented said portion and kept the proceeds. We have not accounted to the executor of Oliver J. Morgan for the profits made. The above is the only possession I have ever had of any of the property.

To the ninth direct interrogatory she answers: I do not
264 know at all. I have not lived on the property since I was very young and know absolutely nothing of the crops made.

To the tenth direct interrogatory she answers: I believe that my mother died a few months before my grandfather, and, therefore, I suppose she did not receive any crops. I cannot state how much cotton my husband and myself have received from the portion of Wilton & Albion we have worked, as noted above; he will know. The only cotton we have ever received from the property has been from the part of Wilton and Albion we have cultivated since 1879.

To the eleventh direct interrogatory she answers: I do not know at all.

To the twelfth direct interrogatory she answers: I have not. The only benefit I have ever received from the property is what my husband and I made from the part of Wilton and Albion which we cultivated from 1879 to 1884.

To the thirteenth direct interrogatory she answers: I do not know. As I have said, I have never received anything, except since 1879, from part of Wilton and Albion, and I cannot state how much he received from that.

265 To the fourteenth direct interrogatory she answers: I have received no benefits from the said plantations except, as stated above, from my possession of a portion of Willow and Albion, since 1879.

To the fifteenth direct interrogatory she answers: I was only ten years — at the time, and knew absolutely nothing of the transaction.

To the sixteenth direct interrogatory she answers: I cannot say. I was only two years old at the time.

To the seventeenth direct interrogatory she answers: I only know of the claim from what the family say. I have always understood that Col. Matt. F. Johnson did receive a considerable amount of money from the United States Government. What he did with it

I do not know. I know certainly that neither my husband nor myself have ever received a penny of it.

To the eighteenth direct interrogatory she answers: I did not know that my father was executor of my grandfather until after his death, nor of my mother. I never accounted to him or his successors for any revenues or property of such successions.

To the nineteenth direct interrogatory she answers: He was my father.

266 To the twentieth direct interrogatory she answers: I do not know.

To the twenty-first direct interrogatory she answers: I do not know what interest is claimed by the heirs of Mrs. Julia Morgan.

To the twenty-second direct interrogatory she answers: I knew absolutely nothing about it. I lived in Kentucky from the time I was four years old, about 1862, until 1873, when I returned to this country; this, together with my young age, prevented my knowing anything about these matters. I have never attempted to annul said sale.

To the twenty-third direct interrogatory she answers: I do not know certainly that there was a sale yet. I know that Mr. Buckner and my sister & myself claim interests in the estate, but just what and how far I do not now know.

Cross-examined upon the cross-interrogatories annexed propounded to Mrs. Narcissa K. Johnson & herself:

To the first cross-interrogatory she says: My mother, Julia Morgan, died in 1860. I do not know when her first husband, A. C. Keene, died. My father and her second husband, Oliver T. Morgan, died 19 August, 1873. I was about two years old, and my

267 sister was about thirteen or fourteen. I married my husband, George G. Johnson, 1st January, 1878. My sister was married in 1860.

To the second cross-interrogatory she answers: He never accounted to me for any portion of the estate.

To the third cross-interrogatory she answers: I never gave any such authority.

To the fourth cross-interrogatory she answers: I never gave any such authority.

To the fifth cross-interrogatory she answers: I did not know it till informed of the fact by these interrogatories.

To the sixth cross-interrogatory she answers: I know nothing hardly of the property until about 1878. At that time John A. Buckner had possession of Melbourne and Col. Matt. F. Johnson had possession, I think, of Albion and Wilton. In 1879 I took possession of a part of Albion and Wilton through my husband, and we cultivated this part until the receiver took possession in 1884. I think our part produced some profit during these years, but I do not know how much.

To the seventh cross-interrogatory she answers: Col. Matt. F. Johnson never paid me any money on account of the claim

268 which he recovered from U. S. Government for my grandfather's estate.

To the eighth cross-interrogatory she answers: I know of no other fact material to this case.

(Signed) JULIA H. JOHNSON.

The deposition of GEORGE G. JOHNSON, taken before me this 14 August, at my office, who, having been first duly sworn, answers to the first direct interrogatory as follows:

I am the husband of Mrs. Julia H. Johnson, who is one of the parties complainant.

To the second direct interrogatory he answers: I do not — the date of the death of the late Oliver J. Morgan nor of the death of Mrs. Julia Morgan. Oliver T. Morgan, her husband, died the 19 August, 1873.

To the third direct interrogatory he answers: I did not know the property at all until 1878. At that time John A. Buckner had possession of Melbourne plantation and kept it till the receiver took it, in 1884. Matt. F. Johnson had possession of Wilton & Albion — 1878 and 1879, and of two-thirds of these places the balance of the time till 1884, when the receiver — appointed. Morgana was in charge of Sam. Boyd, of New Orleans, till 1884. I do not
269 know who had charge of Westland; the latter was not in cultivation, and of Morgana only a small — was cultivated— one hundred to one hundred and fifty acres. I had possession, for my wife, of one-third of Albion & Wilton — 1880, 1881, 1882, 1883, 1884, till receiver — appointed.

To the fourth direct interrogatory he answers: I can only answer for my wife's possession, which, as stated above, was of one-third of Wilton & Albion plantations from fall of 1879 till receiver — appointed, in 1884.

To the fifth direct interrogatory he answers: I do not know. My acquaintance with any of the property was of much later date.

To the sixth direct interrogatory he answers: My wife and myself have not had possession of any of said places or of any of the movables belonging to them, except, as stated above, one-third of Wilton & Albion places from 1879 to 1884. When we took possession of this part there was no stock, tools, or other movables on it.

To the seventh direct interrogatory he answers: I know of no such judgment.

To the eighth direct interrogatory he answers: I do not know, except as regards my wife and myself. During the five years
270 that we held part of Wilton & Albion we cultivated it for our own benefit, appropriated the benefits to our own use, and did not account for the profits or produce to the estate of Oliver J. Morgan or its representative or to any one else.

To the ninth direct interrogatory he answers: I cannot give you any information on this point. My acquaintance with the property is of recent date, and of only a small portion of it, and that portion has been rented for money rents, so that I cannot give you the information you ask.

To the tenth direct interrogatory he answers: I have understood

that Mrs. Julia Morgan died before her father, but I know nothing about the property personally till 1878. Since that time my wife and I have received no cotton or crops from the property except, as stated, from Wilton & Albion, or rather a part of them, from fall 1879 to 1884. During these years this part was rented for money rents, so we received no cotton. In 1880 I received 30 bales of cotton as rent of my wife's part of Albion & Wilton.

To the eleventh direct interrogatory he answers: Richardson & May, for the crop of 1880. For the other years I received a money rent and received no cotton.

271 To the twelfth direct interrogatory he answers: I have not. The only benefit I have derived from any of the property by my wife or myself is shown in my next answer.

To the thirteenth direct interrogatory he answers: I file herewith an account showing the amounts realized by my wife and myself from the one-third portion of Wilton & Albion plantations cultivated by us during the years 1880, 1881, 1882, 1883, and 1884. During these five years my account shows a net profit of $1,162.54.

For 1880 my account shows a rental of 30 bales cotton, worth about $40 per bale, or, say, $1,200; in 1881 a return of $581.91; in 1882 a return of $413.00; in 1883 a return of $1,334.54; in 1884, the last year it remained in our possession, $1,500, making a total return in five years of $5,029.49, against which is to be charged for services, taxes, and repairs, $3,866,95, leaving a net return of $1,162.54. The account is appended to my deposition, marked exhibit "A." These are the only rentals or returns my wife or I have ever received from the property.

272 To the fourteenth direct interrogatory he answers: My wife and I have never received any pecuniary benefits from the property, except as recounted in my answer last above.

To the fifteenth direct interrogatory he answers: I was not acquainted with the property at the time, and know nothing of the sale.

To the sixteenth direct interrogatory he answers: I do not know.

To the seventeenth direct interrogatory he answers: I have understood that Matt. F. Johnson did recover a claim of the estate against the United States Government, but do not know it certainly. I do not know what he did with it; my wife and I have never received any part of it; that much I know.

To the eigh[teenth] direct interrogatory he answers: I knew nothing of the estate or the property until after Oliver T. Morgan's death, and do not know whether or not he was recognized by the heirs as executor of Oliver J. Morgan and Mrs Julia Morgan.

To the nineteenth direct interrogatory he answers: None at all. He was my wife's father, but died prior to our marriage.

To the twentieth direct interrogatory he answers: I do not know. My acquaintance with the property has been since his death.

273 To the twenty-first direct interrogatory he answers: I do not know. I know that John A. Buckner, on behalf of the Kelham heir, claims Melbourne plantation, and that the heirs of Mrs. Julia Morgan claim Albion and Wilton, but that is about all I do know.

To the twenty-second direct interrogatory he answers: That was before my time. I did not — there was a sale until ten years afterwards. I have never taken any steps to annul such sale.

To the twenty-third direct interrogatory he answers: I heard ten years afterwards that there was a sale of that kind, but that was the first intimation I had.

To the cross-interrogatories propounded to Matt. F. Johnson & himself he makes answer as follows:

To the first cross-interrogatory he answers: I do not know. I knew nothing of the places till long afterwards.

To the second cross-interrogatory he answers: I do not know.

To the third cross-interrogatory he answers: I do not know.

To the fourth cross-interrogatory he answers: I knew nothing of the property prior to 1878. In 1878 Wilton and Albion plantations together were not in good repair, but had in cultivation
274 about one thousand acres of land. About the amount was cultivated in 1879, 1880, 1881, 1882. In 1883 about thirteen or fourteen hundred acres were in cultivation; in 1884 about fifteen hundred acres were cultivated.

Since I have know- it Westland has not had any land in cultivation. Morgana will average about one hundred acres in cultivation since I have known — including 1878 to 1884; some years a little more, some years a little less.

To the fifth X interrogatory he answers: I do not know.

To the sixth cross-interrogatory he answers: I do not know; that was before my time.

To the seventh cross-interrogatory he answers: I do not know.

To the eighth cross-interrogatory he answers: My wife was in possession of about one-third of the Wilton and Albion plantations from fall, 1879, until 1884, when the receiver took charge.

To the ninth cross-interrogatory he answers: In my wife's possession of five years we made a nett profit, of the part of Albion & Wilton cultivated by us, of $1,162.54. Our total return was $5,029.49, but, as the property was out of repair, we ex-
275 pended a large part in repairs. Our expense account for taxes, repairs, & services for the five years was $3,866.95, leaving nett $1,162.54. I refer to my Exhibit "A," already filed with examination-in-chief. Albion & Wilton have this year about sixteen hundred acres in cultivation; they have sufficient quarters for hands, in tolerably good repair; there is no residence or gin-house on these places. Westland is not in cultivation, and I do not think there is a house left on it. I have only known the places since 1878. As to their condition each year since that time till 1884, I refer to my answer to cross-interrogatory four. As to crops made on these places I cannot answer, except as to the one-third part of Wilton & Albion, cultivated by my wife and myself from 1879 to 1884, showing, as I have stated above, a net return of $1,162.54 for the five years.

To the tenth cross-interrogatory he answers: I know of no other facts, so far as I can recall, material to the issues in this cause.

(Signed) GEO. G. JOHNSON.

276 *Exhibit "A" to George G. Johnson's Deposition.*

George G. Johnson in ac. with Wilton and Albion places.

GREENVILLE, MISS., *Aug't* 11, '85.

I worked my ⅓ interest in above places in the years 1880, and received about 30 b. c., supposed to average $40 per bale	$1,200 00
J. Stein & Co. were my agents in 1881. I received for that year, net profit, my interest	581 95
J. Stein & Co., agents for 1882, my interest	413 00
J. Stein & Co., agents for 1883, "	1,334 54
J. Stein & Co. rented the property from me for the year 1884 for the sum of	1,500 00
	$5,029 49

CREDITS.

Services for Rufus Reed for 1880	$300 00	
⅓ taxes paid for year 1882	214 84	
⅓ " " 1883	252 11	
Building seven houses	2,100 00	
Repairing old houses	300 00	
Ditching	200 00	
Services for self four years	500 00	
		$3,866 95
Balance		$1,162 54

277 I, C. H. Starling, special commissioner herein, do hereby certify that the foregoing depositions of Matt. F. Johnson and wife and George G. Johnson and wife were taken before me at the times and place specified in the caption; that each of the witnesses was duly sworn before giving his or her testimony, and that their answers were written down by me in their presence and read over to them and signed by them in my presence.

Witness my hand and seal this 14 day of August, 1885.

(Signed) C. H. STARLING, [SEAL.]
Special Commissioner.

278 *Defendant Offerings.*

1st. The stipulation between the parties, by their solicitors, filed July 8th, 1885—

Copied on page 96.

2nd. The stipulation between the parties, by their solicitors, filed May 31, 1886—

Copied on page 101.

3rd. Certificate of Wm. Rous, clerk of the 8th district court, parish of East Carroll, filed May 31, 1886—

Copied on page 99.

4th. The whole record in cause 6612, referred to in the pleadings

in these causes, and numbered 297 on the docket of the Supreme Court of the United States, as the same was printed for use in the Supreme Court of the U. S.; all the documents therein; all the pleadings and proceedings, and all the depositions of all the witnesses therein, the printed copy whereof was filed herein June 7th, 1886.

See printed record annexed to this transcript.

5th. The judgment and decree of the Supreme Court of the
279 United States in said cause 6612 (No. 297) of that court, as printed in the report of said case, in Vol. III of the United States Supreme Court, therein styled Johnson *vs.* Waters.

Hearing and Submission.

Extract from Minutes. April Term, 1886.

NEW ORLEANS, TUESDAY, *June 8th*, 1886.

Court met pursuant to adjournment.

Present: Hon. Edward C. Billings, district judge.

JOHN A. BUCKNER *et al.* *vs.* S. WATERS, Adm'r.	No. 10633 & 10634 Consolidated.
NARCISSA KEENE, Wife, &c., *vs.* S. WATERS, Adm'r.	

These causes, as continued from yesterday, *was* this day resumed, and, after hearing further argument from counsel for the respective parties, were submitted, when the court took time to consider.

280 *Final Decree. Filed June 15th*, 1886.

United States Circuit Court, Eastern District of Louisiana. In Equity.

JOHN A. BUCKNER *et al.* *vs.* S. WATERS, Adm'r of Wm. Gay.	No. 10633, No. 10634 Consolidated.
NARCISSA KEENE, Wife of Matt. F. Johnson, *et al.* *vs.* SAME.	

Final decree.

These consolidated causes came on to be heard at this term on final hearing and were argued by counsel, and thereupon, upon consideration thereof, it is ordered, adjudged, and decreed by the court that the bills of complaint of the complainants, John A. Buckner and others and Narcisse Keene, wife of Matt. F. Johnson, and others, be dismissed, reserving the right to said complainants, ex-

cept said Buckner in his own right, to go before the master appointed in the case of Waters, adm'r, *vs.* Johnson *et al.*, No. 6612 of the docket of this court, and prove up as ordinary claims against the
281 estate of Oliver J. Morgan such sums as may be due them on account of the original indebtedness of Oliver J. Morgan to the heirs of Narcisse Deeson, which indebtedness is hereby recognized as originally $134,991.70, provided said complainants shall account for said property, rents, and revenues of the said estate of Oliver J. Morgan as came to their hands as heirs or grantees of said Oliver J. Morgan, and it is ordered that said complainants do pay all the costs of the suit, said costs to be equally divided between the complainants in the two causes, respectively.

Ordered, adjudged, and decreed this 15th day of June, A. D. 1886.

DON A. PARDEE, *Judge.*

282 *Petition for Appeal. Filed July 9th,* 1886.

Circuit Court of the United States, Eastern District of Louisiana.
April Term, 1886.

JOHN A. BUCKNER & Another *vs.* STEPHENSON WATERS, Adm'r, & NARCISSE KEENE, Wife of Matthew F. Johnson, & Others *vs.* STEPHEN WATERS, Adm'r.	Chancery Docket. Nos. 10633 & 10631 Consolidated.

To the judges of the circuit court of the United States, district aforesaid:

The petition of Stephenson Waters, administrator of William Gay, respondent in these suits, respectfully represents that John A. Buckner and another and Narcisse Keene, wife of Matthew F. Johnson, and others, are the present complainants; that the circuit court has rendered a decree in the above-entitled suits in favor of said complainants, reserving the right to said complainants, except said John A. Buckner in his own right, to go before the master
283 appointed in suit numbered 6612, on the docket of this court and referred to in the pleadings in these causes, and prove up as ordinary claims against the estate of Oliver J. Morgan such sums as may be due them on account of the original indebtedness of Oliver J. Morgan to the heirs of Narcisse Deeson, and recognizing said indebtedness as originally one hundred and thirty-four thousand nine hundred and ninety-one $\frac{71}{100}$ dollars, provided said complainants should account for said property, rents, and revenues of the said estate of Oliver J. Morgan as came to their hands as heirs or grantees of said Oliver J. Morgan.

Your petitioner state- that he has been advised that there is error in the decree, whereby he is injured, and he prays for an order allowing him to appeal to the next term of the Supreme Court of the United States, and that the decree meanwhile be superseded.

Your petitioner prays the court may fix, in the order allowing the approval, the amount of a bond for a suspensive appeal—
284 that is to say, an appeal to operate as a supersedeas, which the petitioner shall give within sixty days from the rendition of the decree herein and with sufficient sureties thereto.

W. F. & D. C. MELLEN,
Sol'rs for Stephenson Waters, Adm'r, &c.

Service accepted and citation of appeal waived.
N. O., July 5th, 1886.

THOS. J. SEMMES,
Sol. for Complainants and Appellees & for Matt. F. Johnson, Ex'r.

Order.

The appeal prayed for allowed, the defendant to give bond, with surety to be approved by the court, within sixty days from the rendition of the decree, in the sum of one thousand dollars, said appeal to be made returnable in the Supreme Court of the United States on the 2d Monday of October, 1886.
July 14, 1886.

DON A. PARDEE, *Judge.*

285 *Bond for Appeal. Filed July 9th,* 1886.

UNITED STATES OF AMERICA:

Know all men by the presents that we, Stephenson Waters, administrator of the succession of William Gay, deceased, as principal, and F. B. Hoffman, as surety, are held and firmly bound, jointly and severally, unto John A. Buckner, John A. Buckner, tutor of Etheline Buckner, and Etheline Buckner, Narcisse Keene and Matthew F. Johnson, her husband, and Julia H. Morgan and George G. Johnson, her husband, in the sum of one thousand dollars, lawful money of the United States of America, to be paid to the said John A. Buckner, John A. Buckner, tutor of Etheline Buckner, and Etheline Buckner, Narcisse Keene and Matthew F. Johnson, her husband, and Julia H. Morgan and George G. Johnson, her husband, their heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the 8th day of July, in the
286 year of our Lord eighteen hundred and eighty-six.

Whereas the said Stephenson Waters, administrator, having heretofore, to wit, on the 9th day of July, 1886, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the fifteenth day of June, 1886, by the circuit court of the United States for the fifth circuit, holding sessions in and for the eastern district of Louisiana, in the consolidated suits of John A. Buckner, for himself and as tutor of his minor child, Etheline Buckner, *versus* Stephenson Waters, adm'r of the succession of Wm. Gay, deceased, and Narcisse Keene and Matthew F. Johnson,

her husband, and Julia H. Morgan and George G. Johnson, her husband, *versus* Stephenson Waters, adm'r of Wm. Gay, deceased, Nos. 10633 & 10634 of the docket thereof:

Now, the condition of the above obligation is that if the above-bounden Stephenson Waters, administrator, shall prosecute his said appeal to effect, and shall answer all damages and costs if he shall fail to make good his plea, then this obligation shall be void; otherwise to remain in full force and virtue.

STEPHENSON WATERS, [L. S.]
287 *Adm'r of the Succession of Wm. Gay, Deceased,*
By D. C. MELLEN, [L. S.]
His Attorney and Solicitor.
F. B. HOFFMAN. [L. S.]

Signed, sealed, and delivered in the presence of—
M. M. COHEN,
U. S. Comm'r, 5th Circuit & Eastern District of Louisiana.

Bond accepted.
July 12, 1886.

DON A. PARDEE, *Judge.*

Approved:
T. J. SEMMES.

UNITED STATES OF AMERICA, } *ss:*
E. District of Louisiana, }

Personally appeared F. B. Hoffman, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, Louisiana, and is worth the full sum of one thousand dollars over and above all of his debts and liabilities and property exempt from execution.

F. B. HOFFMAN.

Subscribed and sworn to before me this 8th day of July, 1886.
M. M. COHEN,
Commissioner U. S. Circuit Court, Eastern District of Louisiana.

288 *Petition for Cross-Appeal by Complainants. Filed July* 22, 1886.

United States Circuit Court, Eastern District of Louisiana.

JOHN A. BUCKNER & *al. vs.* STEVENSON WATERS, Adm'r of the Estate of Wm. Gay; NARCISSE K. KEENE, Wife of Matt. Johnson & *al. vs.* SAME. } Nos. 10633 & 10634.

To the honorable the circuit court of the United States for the eastern district of Louisiana:

The petition of Matthew F. Johnson and his wife, Narcisse K. Keene; of George P. Johnson and his wife, Julia H. Morgan; and of Jno. A. Buckner, for himself and as tutor for his minor daughter, Etheline Buckner, with respect represent that a decree was rendered

in this cause on the 15th day of June, 1886; that the defendant, Stevenson Waters, administrator of the estate of William Gay, has taken and appeal therefrom; petitioners aver that said decree is also erroneous as to them, and they desire to take a cross-appeal.

289 Wherefore petitioners pray that they be allowed a- appeal to the Supreme Court of the United States, returnable on the second Monday of October next, and that the defendant, Stevenson Waters, adm'r as aforesaid, be cited; and petitioners pray for relief, and that said decree be reversed and one rendered in their favor, declaring them to be the owners of the property specified in the bill of complaint, and that the same is not subject to sale for payment of the debts of O. J. Morgan, deceased.

T. J. SEMMES & LEGENDRE,
Sol'r- for Compl'ts.

Service accepted and citation of appeal waived.
July 15, 1886.

W. F. & D. C. MELLEN,
Solicitors for Stephenson Waters, Adm'r of Estate of Wm. Gay.

Appeal allowed as prayed for.
July 19th, 1886.

DON A. PARDEE, *Judge.*

290 *Bond for Appeal. Filed July 22d,* 1886.

UNITED STATES OF AMERICA:

Know all men by these presents that we, John A. Buckner, for himself and as tutor of his daughter Etheline, Matthew F. Johnson and Narcisse K. Keene, his wife, George P. Johnson and Julia H. Morgan, his wife, as principal, and H. & C. Newman, and T. L. Airey and Co., merchants, in New Orleans, as sureties, are held and firmly bound, jointly and severally, unto Stevenson Waters, administrator of the estate of William Gay, in the sum of three hundred ($300) dollars, lawful money of the United States of America, to be paid to the said Stevenson Waters, administrator of the estate of Wm. Gay, his heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves and each of us, by himself and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the sixteenth day of July, in the year of our Lord eighteen hundred and seventy-six.

291 Whereas the said Buckner and the said Johnson and their wives having heretofore, to wit, on the 16th day of July, 1886, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the 15th day of June, 1886, by the circuit court of the United States for the fifth circuit, holding sessions in and for the eastern district of Louisiana, in the suits of John A. Buckner & *al. vs.* Stevenson Waters, adm'r of the estate of William Gay, and of Narcisse K. Keene, wife of Matthew

F. Johnson, against the same defendant, said suits consolidated, Nos. 10633 & 10634 of the docket thereof:

Now, the condition of the above obligation is that if the above-bounden Buckner and Johnsons and their wives shall prosecute their said appeal to effect, and shall answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

Signed, sealed, and delivered in presence of—

JNO. A. BUCKNER,
For Himself and Tutor of Etheline Buckner.
MATTHEW F. JOHNSON,
And his wife, NARCISSE K. KEENE.
GEORGE P. JOHNSON,
And his wife, JULIA H. MORGAN.
By their attorney, THOS. J. SEMMES. [L. S.]
THOS. L. AIREY & CO.,
Per A. F. JANIN. [L. S.]
H. & C. NEWMAN,
By CHAS. NEWMAN. [L. S.]

Approved: W. F. & D. C. MELLEN,
Sol's of Stephenson Waters.

Bond accepted.
July 19th, 1886.

DON A. PARDEE, *Judge.*

292 UNITED STATES OF AMERICA:

Circuit Court of the United States, Fifth Circuit and Eastern District of Louisiana.

CLERK'S OFFICE.

I, Edward R. Hunt, clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, do hereby certify that the foregoing 291 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the cases of John A. Buckner *et al. vs.* Stevenson Waters, adm'r, and Narcissa Keene, Wife, &c., *vs.* Stevenson Waters, adm'r, Nos. 10633, 10634 of the docket of the said court, consolidated.

Witness my hand and the seal of said court, at the city of New Orleans, this 22 day of September, A. D. 1886.

[Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

E. R. HUNT, *Clerk.*

I, Don A. Pardee, United States judge for the eastern district of Louisiana, do certify that Edward R. Hunt, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 22 day of September, A. D. 1886.

DON A. PARDEE, *Judge.*

293 *Opinion. Filed June 15th,* 1886.

U. S. Circuit Court, Eastern District of Louisiana.

JOHN A. BUCKNER *et al.*
vs.
STEVENSON WATERS, Adm'r,
and
NARCISSA KEENE, Wife, &c.,
vs.
STEVENSON WATERS, Adm'r.

No. 10633, 10634.
Two Cases Consolidated.

The opinion and decree in the *in the* case of Johnson *vs.* Waters, 111 U. S., we think precludes us from considering the claims of J. A. Buckner, presented in his own name and for himself, but does not preclude us from considering whatever rights he may have against Oliver Morgan's succession as tutor of his minor child, Etheline Buckner.

The act called an act of sale and donation was interpreted and passed on by the Supreme Court in that case in such a way as to leave to us but one matter in relation to its effect—that is, whether or not the said act may be treated as a good conveyance of a portion of the sev-
294 eral plantations and lands named in said act, so that Julia Morgan or her representatives may be entitled to by privilege claim to the proceeds of a part of said lands when they are sold under the decree in the case of Johnson *vs.* Waters, No. —.

We do not think the act can be treated as a good conveyance to Julia Morgan of any part of said lands, or that it entitles her or her heirs to any privilege claim on any part of the proceeds of the sale of said lands.

Under the view we take of the matters which are not concluded by the said opinion and decree and which are now presented in complainants bill, the said act is without effect except in so far as it shows that Oliver J. Morgan, in consequence of his having purchased at partition sales his deceased wife'-, Narcissa Deeson'-, interest in the lands belonging to the community, owes the purchase price thereof as an ordinary debt of $134,991,40 (one hundred and thirty-four thousand nine hundred ninety-one dollars and forty cents) to
295 the heirs of his said wife, the complainants; that this sum became due and payable at the death of Oliver J. Morgan, in A. D. 1860, with interest; that these claims are debts against Oliver J. Morgan's succession, and they have not been paid or discharged, except in so far as the said heirs have been paid out of the property, its rents or revenues, of said succession.

The general effect of this finding is that the complainants are not now and never have — the owners of the plantations or lands or any part of them under the act; that complainants, except Buckner, for himself, may present the claims, herein recognized and fixed

in the sum of $134,991.40, to the master as ordinary claims or debts against Oliver J. Morgan's succession, and that if anything may be found due them they should show in the proceeds of the sale of said plantations or other property of said succession when made under the decree in the case of Johnson *vs.* Waters, No. —.

296 CLERK'S OFFICE.

I certify the foregoing (3) three pages to be a true copy from the original record in this office of the opinion in the consolidated causes, Nos. 10633 & 10634, filed June 15, 1886.

New Orleans, September 22, 1886.

[Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

E. R. HUNT, *Clerk.*

Endorsed on cover: E. Louisiana C. C. U. S. No. 1091. Stephenson Waters, administrator of William Gay, deceased, appellant, *vs.* John A. Buckner, in his own right and as tutor of Etheline Buckner, a minor; Narcisse Keene and Matthew F. Johnson, her husband, and Julia H. Morgan and George G. Johnson, her husband. Filed October 8, 1886. No. 1292. John A. Buckner, in his own right and as tutor of Etheline Buckner, a minor; Narcisse Keene and Matthew F. Johnson, her husband, and Julia H. Morgan and George G. Johnson, her husband, appellants, *vs.* Stephenson Waters, administrator of William Gay, deceased. Filed November 18, 1886.